

**03-06-
2025**
Item No.1
Subrata

Bhattacharyy
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AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.12161 of 2025
BGB Realtors & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Rishabh Dutta Gupta ...for the petitioners

Mr. Daipayan Banerjee
Mr. A. Ghosh ...for the bank

Mr. Subrata Guha Biswas
Ms. Debarati Sen Bose
Ms. Mohuya Dutta Biswas ...for the State

The present writ petition has been preferred challenging an order dated May 23, 2025, passed by the learned CJM, Alipore, under Section 14 of the SARFAESI Act, 2002.

Mr. Gupta, learned counsel for the petitioners submits that this Court has jurisdiction to examine the legality of the order passed by the learned CJM under Section 14 of the 2002 Act. In support of his contention, he has relied upon the decision, reported in *(2012) 11 SCC 224 (Columbia Sportswear Company v. Director of Income Tax, Bangalore)*.

In rebuttal, Mr. Banerjee, learned advocate representing the bank submits that, after being served with the notice under Section 13(4) of the 2002 Act, the petitioners filed an application before the Debts Recovery Tribunal. The learned Tribunal refused to grant any

interim order in their favour. Thereafter, the petitioners approached the learned Debts Recovery Appellate Tribunal seeking an interim order. He submits that the petitioners, who have already availed themselves of the alternative remedy, are attempting to stall the recovery proceedings by preferring this writ petition.

Mr. Guha Biswas, learned advocate appearing for the State, submits that the order passed by the learned CJM has already been acted upon and that the possession of the secured assets have been taken.

Admittedly, the writ court has plenary and extraordinary powers to extend its long arm wherever injustice is found. However, over the years, the doctrine of self-imposed restrictions has evolved by the Court itself. Particularly, where an alternative remedy is provided by statute, the Court will not violate its own principle of self-restraint.

In the present case, the SARFAESI Act, 2002 itself provides an alternative remedy. Where such an alternative remedy is available to the aggrieved person, the rule of self-restraint applies with greater rigour, particularly in matters relating to the recovery of bank dues and similar proceedings. A useful reference may be made to the judgment reported in *(2010) 8 SCC 110 (Union of India & Ors. v. Satyawati Tandon)*, wherein the Hon'ble Supreme Court directed the High Courts not to interfere in such matters merely on the asking.

As noticed earlier, in response to the notice issued under Section 13(4), the petitioners have availed an alternative remedy. They are, however, taking the plea that the Tribunal is not functioning during the ongoing summer vacation. Consequently, they have approached this Court to invoke its extraordinary jurisdiction to stall the recovery process. It is also noted that the order under challenge in the writ petition has already been acted upon.

Taking notice of this fact and applying the principles enunciated in the judgment of *Satyawati Tandon* (supra), I am not inclined to interfere in the instant writ petition. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

All parties are to act on the server copy of this order, duly downloaded from the official website of this Court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Partha Sarathi Chatterjee, J]

