

04
11.06.2025
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 12167 of 2025

**Smt. Chandana Sinha & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Pritam Majumdar,
Mr. Mainak Singha Barman.
...For the Petitioners.**

**Ms. Anjana Sen Gupta,
Mr. Md. Babulal Mollah.
...For the Bank.**

1. Affidavit of service filed in Court today is taken on record.

2. The petitioners are aggrieved by the action taken by the UCO Bank to recover the loan amount under the provisions of the SARFAESI Act.

3. Learned advocate appearing on behalf of the petitioners submits that the petitioners have been wrongfully thrown out of possession of the secured asset but at the same time it has been contended that the possession of the secured asset has not been handed over to the auction purchaser till date.

4. Prayer has been made to restrain the Bank to hand over physical possession of the auction property to the auction purchaser.

5. Learned advocate appearing on behalf of the Bank produces the copy of the sale certificate of the secured asset dated 15th February, 2025 and the order dated 30th April, 2025 passed by the Sub-Divisional Magistrate, Kalyani, Nadia under Section 14(1) of the SARFAESI Act, 2002.

6. It has been submitted that since the property has already been sold, there is no scope to restrain the auction purchaser to take physical possession of the same.

7. From the submissions made on behalf of the parties and on perusal of the documents placed before this Court it appears that, admittedly, a sale certificate has been issued in favour of the auction purchaser. If the petitioner seeks any restraint order to restrain the auction purchaser to take possession of the auction property, then the right of the auction purchaser to the said property will be infringed.

8. The auction purchaser has not been impleaded as a party respondent in the instant writ petition. Any order passed restraining the Bank to hand over physical possession to the said party behind the back of the auction purchaser will result in violation of principle of natural justice.

9. In view of the above, the Court is not inclined to interfere in the instant case.

10. It will be open for the petitioners to approach the competent forum for relief, in accordance with law, if so advised.

11. The writ petition stands disposed of.

12. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)