

**03-06-
2025**
Item
No.40
Subrata
Bhattacharyy
a
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.12311 of 2025
BGB Realtors & Anr.
-vs-
The Presiding Officer, Debts Recovery Tribunal-I, Kolkata &
Ors.

Mr. Rishabh Dutta Gupta ...for the petitioners

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

Mr. Swapan Banerjee, AGP
Mr. Subrata Guha Biswas
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 advocate 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 placed reliance upon a decision reported in *(2012) 11 SCC 224 (Columbia Sportswear Company v. Director of Income Tax, Bangalore)*.

In rebuttal, Mr. Banerjee, learned counsel for the bank submits that, upon being served with a notice under Section 13(4) of the 2002 Act, the petitioners filed an application before the learned Debts Recovery Tribunal.

The learned Tribunal refused to grant any interim relief in their favour. Thereafter, the petitioners approached the learned Debts Recovery Appellate Tribunal seeking an interim order but did not press the same. He submits that the petitioners are now making an effort to stall the recovery proceedings by preferring this writ petition.

None appears for the State. I find Mr. Banerjee, Mr. Swapan Banerjee, learned Additional Government Pleader, who usually appears for the State is present in Court. I requested to him to appear in this matter. Let the engagement of Mr. Banerjee be regularized along with his juniors of his choice.

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. In particular, 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 assumes greater rigour, particularly in matters involving 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.

In response to the notice under Section 13(4), the petitioners have availed the alternative remedy. They are, however, taking the plea that during the ongoing summer vacation, the Tribunal is not functioning. Therefore, 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 note 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]

