

20-08-2025
Item No.30
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.19187 of 2025
Smt. Kakoli Das alias Kakali Das
-vs-
Punjab National Bank & Ors.

Mr. Tilak Mitra
Mr. Pabitra Talukdar ...for the petitioner

Mr. Abhishek Banerjee
Ms. Parna Roy Chowdhury ...for the bank

1. The writ petitioner is aggrieved by the notice issued by the Punjab National Bank on August 4, 2025 for taking physical possession of the property described as residential flat no. A (Western side) on 3rd Floor of a G+3 storied building named Uma Apartment situated within the Maheshtala Municipality. The said notice was issued in furtherance of an order passed by the District Magistrate on August 8, 2024 under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
2. It appears that in the proceeding under Section 14 of the 2002 Act, the secured asset has been described as flat no. B (Western side), whereas in the impugned notice the secured asset has been described as residential flat no. A (Western side). The bank cannot proceed to take possession of a property which is incorrectly mentioned in the vacation notice.
3. Learned counsel for the petitioner stresses on the fact that the petitioner was never made aware of

the proceeding under the 2002 Act in respect of the subject property. An agreement for sale was executed in the year 2011 but as the sale deed was not registered, the petitioner had to approach the consumer forum for obtaining necessary order. It was only after the order was passed by the consumer forum that the property got registered in favour of the petitioner in the year 2022. The petitioner is in no way connected with the loan. Prayer has been made to restrain the bank from taking physical possession of the property.

4. It has been submitted that today the bank is executing the order passed by the District Magistrate on August 8, 2024 under Section 14 of the 2002 Act.
5. Learned counsel for the bank admits that the petitioner is in no way connected with the loan. It has been submitted that the loan was obtained in the year 2012 and thereafter proceeding was initiated for recovery of the loan amount as the borrower failed to repay the same.
6. It has been submitted that the petitioner did not challenge the order of the District Magistrate passed under Section 14 of the 2002 Act. Today, when the bank is taking steps for taking physical possession of the property, the instant writ petition has been filed to stall the same.
7. It has been submitted that the existence of the loan in respect of the property was mentioned in the portal of the Central Registry of Securitization Asset Reconstruction and Security Interest of India.
8. On a perusal of the documents placed before this Court by the learned counsel for the bank with

regard to the disclosure of the loan in the portal, it appears that the flat no. B occupied by the petitioner is not mentioned therein. The document mentions about flat no. A.

9. Learned counsel for the bank submits that there is connivance between the borrower and the petitioner. The petitioner was aware of the notice on August 4, 2025 when the notice was issued in favour of the borrower. The petitioner chose to approach this Court only on the day when physical possession was sought to be taken. Prayer has been made to dismiss the writ petition.
10. Upon hearing the respective submissions on behalf of both the parties it appears that, both parties admit that the petitioner is in no way connected with the loan. The petitioner has annexed to the writ petition the documents to show that the agreement for sale was executed in November 2011 prior to the creation of the loan. The petitioner had to rush to the consumer forum for registration of the deed of conveyance as the vendors were not taking steps for execution of the deed in favour of the petitioner. Order was obtained by the petitioner and only thereafter the property stood registered in the name of the petitioner.
11. The petitioner was never made aware by any of the parties whatsoever with regard to the existence of the loan or the fact of mortgage of the subject property to the bank. The bank proceeded to obtain order under Section 14 of the Act for taking physical possession. At that stage also the petitioner was not communicated.
12. The impugned notice of vacation dated August 4, 2025, as claimed by the petitioner, was affixed on

the outer wall of the petitioner's flat on August 7, 2025 and it is only thereafter that the instant writ petition has been prepared and filed on August 18, 2025.

13. It has been brought to the notice of the court that an application has been filed under the Act of 2002 and the same is pending consideration before the Debts Recovery Tribunal at the instance of the borrower and the said matter is appearing for consideration in the list of the Tribunal today.
14. As the petitioner has been able to show at least some documents in support of his submission that the petitioner is in possession of the property which was purchased by her upon payment of valuable consideration and the petitioner had to approach a judicial forum for getting the sale deed executed in her favour, accordingly, the Court grants liberty to the petitioner to approach the Debts Recovery Tribunal for further relief.
15. The bank is restrained from taking any coercive step against the petitioner till September 26, 2025; provided the petitioner approaches the Tribunal by August 29, 2025.
16. It will be open for the petitioner to pray for appropriate interim order for her protection before the Tribunal. If the petitioner approaches the Tribunal within the time limit stipulated hereinabove; the Tribunal will consider the petitioner's prayer for grant of protective interim order within September 26, 2025; and if the same cannot be decided within the said time period, the Tribunal may consider extending the interim order in favour of the petitioner till such time it deems fit.

17. The Tribunal shall decide the petitioner's prayer on merits without being influenced by any observation made hereinabove.
18. The writ petition is disposed of.
19. All parties are to act on the server copy of this order duly downloaded from the official website of this Court.
20. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]