

ML 246
27.01.2025
Court No.14
BP/AGM

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 25479 of 2024

Goutam Das
Vs.
Union of India & Ors.

Mr. Dilip Kumar Samanta.
Mr. Biswapriya Samanta.
Mr. Suhotro Palit.

... For the petitioner.

Mr. Diganta Das.
Ms. Avipriya Bose.

... For the respondent nos. 3 to 5.

1. In the instant writ petition the petitioner has challenged the order passed by the District Magistrate dated 29th January, 2024 under Section 14 of the SARFAESI Act, 2002. The petitioner is the borrower of a loan account and due to non-repayment of the loan amount, the account of the petitioner has been termed as NPA. The bank has taken steps under the SARFAESI Act.
2. The petitioner submits that as no opportunity was given to the petitioner prior to disposal of the application under Section 14 of the Act, there has been violation of the principles of natural justice. Prayer has been made to set aside the order passed by the District Magistrate.
3. In support of such submission, learned counsel for the petitioner relies on the judgment delivered by a three-judge bench of the Hon'ble Supreme Court in

H. L. Trehan & Ors. –Vs- Union of India & Ors.

reported in **1989 1 SCC 764** (paragraphs 11, 12 and 13).

4. Learned advocate representing the bank submits that the petitioner has already approached the Debts Recovery Tribunal for relief. The application made by the petitioner before the Tribunal is pending consideration.
5. Learned advocate for the bank produces a copy of the letter dated 9th May, 2024 filed by the petitioner before the bank intimating his decision to withdraw the application filed before the Debts Recovery Tribunal.
6. In the said letter it has been mentioned that, the petitioner after careful consideration and review of the circumstance has concluded that pursuing legal action is not the appropriate course of action and he disclosed his intention to withdraw the case before the Tribunal. The case number is also mentioned in the said letter.
7. The petition filed by the petitioner before the Tribunal has also been produced before this Court.
8. The interim application made by the petitioner is, however, pending consideration despite the communication made by the petitioner to the bank disclosing his intention to withdraw the same.

9. On a perusal of the provisions of Section 14 of the Act it appears that there is no scope for granting any opportunity of hearing to the aggrieved party.
10. The provision mentions that on a request being made by the secured creditor to take over possession of the secured asset, the District Magistrate may take steps in accordance with the said provision. The District Magistrate has acted accordingly.
11. The decision relied upon by the petitioner is in connection with a separate Act and on different facts and circumstances. The SARFAESI Act was not in existence when the cited case was decided by the Hon'ble Supreme Court. The said decision cannot be applied in the facts and circumstances of the instant case.
12. In view of the above, there is no scope for interference in the instant writ petition.
13. The writ petition fails and is hereby dismissed.
14. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)