**M/L 27**
21.02.2025
Court No.14
*PRADIP*

IN THE HIGH COURT AT CALCUTTA
<u>CONSTITUTIONAL WRIT JURISDICTION</u>

WPA 30691 of 2024

IIFL Home Finance Limited
Vs.
State of West Bengal & Ors.

*Mr. Anuj Singh*
*Ms. Rupal Singh*
*Mr. Ashok Kumar*
*... for the Petitioner.*

1. The application made by the petitioner before the Additional Chief Judicial Magistrate on 24th November, 2023 under Section 14 of the SARFAESI Act is pending consideration till date. The next date fixed by the learned Court is on 30th December, 2025.
2. Section 14(1) of the SARFAESI Act (2nd proviso) 2002 postulates that on receipt of the affidavit from the authorized officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets within a period of thirty days from the date of application.
3. The next proviso mentions that if no order is passed by the Chief Metropolitan Magistrate or the District Magistrate within the aforesaid period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such further period but not exceeding, in aggregate, sixty days.
4. The powers and functions of the Chief Metropolitan Magistrate and the Chief Judicial Magistrate are similar and equivalent in relation to the matter specified in the Criminal Procedure Code

and the expressions Chief Metropolitan Magistrate and Chief Judicial Magistrate are interchangeable and synonymous to each other. As per the judgment delivered by the Hon'ble Supreme Court in ***Indian Bank vs. D. Visalakshi; (2019) 20 SCC 47***, the Chief Judicial Magistrate is equally competent to deal with the application moved by the secured creditor under Section 14 of the Act.

5. As per the provisions of Section 12 Cr.P.C. and Section 10 BNSS, the Additional Chief Judicial Magistrate shall have all or any of the powers of the Chief Judicial Magistrate under the code or any other law for the time being in force. Hence, the power and functions of Chief Judicial Magistrate and Additional Chief Judicial Magistrate being the same, the Additional Chief Judicial Magistrate will be bound to take steps under Section 14 of the Act in the same manner as exercised by the Chief Judicial Magistrate.
6. In the instant case, date fixed by the Additional Chief Judicial Magistrate for deciding the Section 14 application is beyond the statutory period of sixty days.
7. The learned Magistrate ought to have appreciated that the time limit fixed in the Act is for the purpose of timely disposal of the Section 14 application. The primary object of the Act is for recovery of the loan amount where time is the essence. Any delay in taking steps to proceed with the application under Section 14 will result in further delay of recovery of the loan amount. Such delay will frustrate the very object and purpose of the Act.
8. Inaction on the part of the Magistrate to dispose of the application within the stipulated time period has resulted in filing the instant writ petition which could have been avoided had the Magistrate acted in a time bound manner. It goes

without saying that the Section 14 authority is required to act strictly within the time frame stipulated in the Act.

9. The instant writ petition is, accordingly, disposed of by observing that the concerned Magistrate shall take steps in the matter strictly in accordance with the statute and not otherwise.

10. The writ petition stands disposed of.

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

**(Amrita Sinha, J.)**