

OD - 1

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction

ORIGINAL SIDE

IA NO. GA/1/2025
WPO/633/2025
PRITILATA HALDER AND ORS
Vs
THE STATE OF WEST BENGAL AND ORS

BEFORE :
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 28th November, 2025

Appearance :
Mr. Debnath Ganguly, Adv.
Mr. Aranya Saha, Adv.
..for petitioner.
Mr.A. Sarkar, Adv.
..for RBI.
Mr. Shiv Mangal Singh, Adv.
..for respondent nos.6 & 7.
Mr. Debangshu Dinda, Adv.
...for State.
Mr.Suranjan Dutta, Adv.
...for respondent nos.9 & 10.

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

Though this matter was mentioned for extension of the interim order but, with the consent of the respective parties, the main writ petition is taken up for consideration by treating the same as on day's list.

The writ petition has been filed challenging the action of the respondent authorities in making an attempt to take possession of the property of the petitioner which, according to the petitioner, is not the secured asset and is not the subject matter of any SARFAESI proceeding before the Debts Recovery Tribunal. The petitioner claims to be the owner of a property being Dag Nos.188 and 189 (within Mouza - Dari

Jagannathpur @ Jagannathpur, J.L. No.27, Block - Phalta @ Falta, P.O. - Falta, S.O. Police Station - Falta, District - South 24 Parganas) by way of inheritance. The petitioner claims that her predecessor in interest have constructed a G+ one storied building on the aforesaid plots of land after obtaining sanction from the concerned panchayat authority.

The grievance of the petitioner is that taking advantage of an order passed under Section 14 of the SARFAESI Act, 2002 the secured creditor is trying to take over possession of the property of the petitioners which do not form part of the secured asset. On the aforesaid grounds the writ petition was filed.

The learned Advocate appearing for the secured creditor submits that a proceeding under Section 17 of the SARFAESI Act at the instance of the respondent nos.9 and 10 being SA/118/2024 is pending before the Debts Recovery Tribunal - 3, Kolkata. He further submits that the secured creditor approached the District Magistrate, 24 Parganas South under Section 14 of the SARFAESI Act, 2002 and the District Magistrate by an order dated April 4, 2005 directed the authorised officer of the Indian Bank to intimate the date of possession of the secured asset to the Superintendent of Police, Diamond Harbour Police District as well as the authorised officer appointed well in advance to take possession of the secured asset/property of the secured creditor on behalf of the District Magistrate, 24 Parganas South and the Superintendent of Police, Diamond Harbour Police District was directed to instruct the local police station to provide police assistance for maintaining the law and order as and when approached upon.

The learned Advocate submits that since a proceeding under Section 17 of the SARFAESI Act is pending before the Debts Recover Tribunal, the petitioner ought to have approached the learned Tribunal.

In reply, the learned Advocate appearing for the petitioner submits that since the property, which was sought to be taken possession of, is not the secured asset, the instant writ petition has been filed.

The learned Advocate appearing for the secured creditor, however, submits that the secured creditor is only interested in the property which is mentioned in the Schedule of Property in the order of the District Magistrate, 24 Parganas South dated April 4, 2025. Such submission is placed on record.

After going through the Schedule of Property as mentioned in the order dated April 4, 2025, this Court finds that the Schedule of Property mentioned therein is all the piece and parcel of land and two storied building with R.C.C. roofing measuring about 26.41 satak, more or less lying and situated at Mouza – Dari Jagannathpur, J.No. No.27, R.S. Khatian No.162 & 174, LR Khatian No.1295, RS & LR Dag No.196 & 195 under P.S – Falta, Belsingha 1 Gram Panchayat, 24 Parganas South.

The petitioner claims to be the owner of RS Dag No.188 and 189 and not LR Dag Nos.196 & 195.

Since the order under Section 14 of the SARFAESI Act has been passed in respect of the property mentioned in the Schedule therein, the authorities cannot take possession of any other property other than the one which is mentioned in the order dated April 4, 2025 under the heading ‘Schedule of Property’.

The learned Advocate appearing for the petitioner submits that there is no two storied building standing on RS and LR Dag Nos.196 and 195. This Court is not inclined to go into that issue as the order dated April 4, 2025 relates to a particular property being RS & LR Dag Nos.196 & 195 as mentioned in the said order.

Since the petitioner has no claim in respect of the property mentioned in the Schedule of Property in the order dated April 4, 2025, the petitioner cannot have any reasons to feel aggrieved by the order of the District Magistrate, 24 Parganas South dated April 4, 2025 or any action taken pursuant to such order.

With the above observations, WPO/633/2025 stands disposed of.

After the order is passed, the learned Advocate appearing for the petitioner prays for stay of operation of the order. In light of the observations made hereinabove, this Court does not find any reason to pass an order of stay of operation of this order.

(HIRANMAY BHATTACHARYYA, J.)

sd/

