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IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

ORIGINAL SIDE

IA NO. GA/1/2025
APOT/317/2025
PRITILATA HALDER AND ORS
Vs
THE STATE OF WEST BENGAL AND ORS

BEFORE :
THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
And
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
Date : 10th December, 2025

Appearance :
Mr. Debnath Ganguly, Adv.
Mr.Aranya Saha, Adv.
Mr. Supriyo Dutta, Adv.
…for appellant

Mr. Shiv Mangal Singh, Adv.
..for Indian Bank

Mr. Suranjan Dutta, Adv.
…for respondent nos.9 & 10

Mr. Debangshu Dinda, Adv.
..for State.

Mr. Debabrata Das, Adv.
Mr. A. Sarkar, Adv.
…for RBI.

The Court: Affidavit of service filed today be kept on record.

The appeal is taken up for hearing out of turn in view of the urgency mentioned by learned counsel for the appellants.

The appellants' case is that the private respondent, being the son of appellant no.1 and the brother of the rest of the appellants, took a loan from the respondent bank by furnishing a property, which is actually a pond, in respect of RS and LR Dag Nos. 196 and 195, as the secured asset.

However, it is pointed out that although the present appellants do not have any claim on RS and LR Dag Nos. 196 and 195, which is the secured asset, the possession of the appellants' property, situated in RS Dag No.188 and 189, which is comprised of a two storied building, is being sought to be taken by the Bank on the strength of an order passed under Section 14 of the SARFAESI Act.

It is further submitted that collusively, the mortgaged property on RS and LR Dag Nos. 196 and 195, which is actually a water-body, has been described to be a two storied building with RCC roofing. It is contended by the appellants that since the two storied building standing on the property of the appellants, on RS Dag No.188 and 189, is the only such building in the locality, the appellants reasonably apprehend that in the garb of taking possession of the mortgaged property of the private respondents, the respondent bank shall take possession of the property of the appellants.

As such, being aggrieved by the order passed under Section 14 of the SARFAESI Act, the present writ petition was preferred, which culminated in the impugned order, whereby no specific protection has been given to the appellants.

Learned counsel for the appellants further submits that a report be called for from an appropriate authority to ascertain the identity of the mortgaged property and to find out as to whether it is comprised of two storied building at all.

Such contention is opposed by learned counsel for the respondent bank as well as the private respondents and it is submitted that the impugned order takes care of the grievance of the appellants.

We find from the impugned order that the learned Single Judge observed therein that after going through the schedule of property as mentioned in the impugned order, the said court found that the schedule of property mentioned therein is as described therein. It was further recorded that the petitioners (present appellants) claim to be the owners of RS Dag No.188 and 189 and not RS and LR Dag Nos. 196 and 195. The learned Judge went to observe that 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 was mentioned in the order dated April 4, 2025 under the heading "schedule of property". It was also observed by the learned Single Judge that since the petitioner has no claim in respect of the property mentioned in the schedule of property in the impugned order dated April 4, 2025, the writ petitioners cannot have any reason to feel aggrieved by the order of the District Magistrate.

Thus, we find that irrespective of the schedule property mentioned in the order of the District Magistrate, which is the secured asset of the mortgage of the private respondent with the respondent bank, being described as a two storied building, the boundaries of the secured asset are clearly defined not merely by such description but by the specific Dag numbers as given in the schedule.

Hence, we find that since the mortgage is restricted to RS and LR Dag Nos. 196 and 195, the ambit of the order under Section 14 of the SARFAESI Act would remain restricted to the said Dag numbers only. In the garb of taking possession of the said Dag numbers, the property of the appellants standing on RS Dag No.188 and 189 cannot be taken possession of by the respondent bank.

Since the impugned order, in letter and spirit, corroborates our above findings, we do not find any scope of interference with the same. Accordingly, APOT/317/2025 along with GA/1/2025 are disposed of in the light of the above observations, without any order as to costs.

(SABYASACHI BHATTACHARYYA, J.)

(SUPRATIM BHATTACHARYA, J.)

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