

D/L.11.
March 06, 2026.
KAUSHIK

WPA No. 4078 of 2026

Imtiaz Middya
Vs.
The State of West Bengal & Ors.

Mr. Golam Mostafa
Mr. Subir Sabud
Mr. Samirul Sardar
... for the petitioner

Mr. Ajit Kumar Mishra
Mr. Abhishek Dey
Mr. Suprovat Banerjee
... for the respondent no. 5

Mr. Sambuddha Dutta
Mr. Abhishek Chakraborty
... for the State

The grievance of the petitioner is directed against an order dated 18 December, 2025 passed by the Chief Judicial Magistrate, Howrah in a proceeding initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI).

It is submitted on behalf of the petitioner that the secured property being enforced by the respondent NBFC does not belong to the petitioner and has been fraudulently and clandestinely given as security to the petitioner bank.

It is contended on behalf of the petitioner that the petitioner is the lawful owner of the

property morefully enumerated in paragraph 2 of the petition and had purchased the same way back in 2015. In this background, there is no question of the petitioner directly or indirectly having created a mortgage in respect of the above property with the respondent NBFC.

On behalf of respondent NBFC, it is submitted that the instant writ petition is not maintainable. In any event, the petitioner has a statutory alternative remedy under section 17 of the Act of 2002.

In view of the alternative efficacious statutory remedy available to the petitioner under SARFAESI, the instant writ petition is *ex facie* not maintainable.

WPA 4078 of 2026 stands dismissed.

Liberty is granted to the petitioner to take necessary steps in accordance with law, if so advised.

It is made clear that there has been no expression on the merits of the case and all questions are left open to be decided by the Tribunal strictly in accordance with law.

(Ravi Krishan Kapur, J.)