

20.04.2026
Court No. 12
Item No. 06
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

M.A.T. 640 of 2026
IA No : CAN 1 of 2026

In
W.P.A. 7246 of 2026
Arindam Ghosh

-Versus-

Union of India & Ors.

Mr. Sardar Amjad Ali, Sr. Adv.,
Mr. Dilip Kumar Samanta,
Mr. Biswapriya Samanta,
Mr. Suhotro Palit

.....for the appellant

Ms. Ashima Roy Chowdhury

....for the Union of India.

Mr. Mohit Gupta,
Ms. Mousumi Pal,
Mr. Kaushik Modak

....for the respondent nos. 2 & 3.

1) The appeal arises out of an order dated March 30, 2026 passed in W.P.A. 7246 of 2026. By the order impugned the learned single Judge held that the writ petition was not maintainable in view of the alternative remedy under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act' in short).

2) We find no illegality in the order impugned, in view of Section 17 of the SARFAESI Act.

3) Mr. Ali, learned senior advocate submits that apart from the property which was mortgaged and the schedule of which was available from the documents with the bank, no further steps should be taken by the bank in respect of the portion of the land in excess of

what was mentioned in the schedule. Mr. Ali further submits that a civil suit is pending for partition of the property.

4) The bank has taken steps in respect of the mortgaged property. The sale notice also indicates so and the bank has prior claim, insofar as, with the mortgaged property is concerned, even if the civil suit is pending.

5) Mr. Gupta, learned advocate for the bank submits that the entire mortgaged property comprises of 0.005 acres along with a showroom under the name and style “Discovery” within Burdwan Municipality that is Holding No. 120, Mohalla – B. B. Ghosh Road.

6) According to Mr. Gupta, the schedule of the property as mentioned in paragraph 13 of the writ petition already sold and he relies on the sale notice, which is at page 17 of the writ petition. The details and description of the mortgaged assets appears to be scheduled in the sale notice, which is quoted below :-

SCHEDULE

The specific details of the assets which were intended to be brought to sale is enumerated hereunder:

Details/Description of Mortgaged Assets	Reserve Price Rs.	EMD Rs.	Date, Time for e-auction Property ID	Prior Encumbrance
All the piece and parcel of property land & building standing in the name of Sri Guru Prasad Ghosh Situated at Mouza-Radhanagar, J L No-39, RS Khatian No-726, LR Khatian No-	1,00,00,000.00 (Rupees One Crore Only)	1,000,000.00 (Rupees Ten Lakh Only)	30.03.2026 10:00 AM to 04.00 PM IDIB50139 268211	Not Known to us

1393, RS Plot no-1557, LR Plot No – 2278, land measuring an area of 0.005 acre alongwith showroom under name and style of “Discovery”, PO & PS- Burdwan, W no-31 under burdwan Municipality, Holding No- 120, Mohalla- B B Ghosh Road, registered vide deed no- I- 6388/1989 registered in Book No-I, Vol no-122, Page No-78 to 85				
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- 7) Mr. Gupta further submits that the sale notice also indicates that steps were taken by the bank by issuing notice to the deceased father of the appellant, who was the guarantor. Notices under Sections 13 (2) and 13 (4) of the SARFAESI Act had been issued. After the issuance of the sale notice the appellant had approached the writ Court with incorrect submissions, upon the death of his father.
- 8) Under such circumstances, the action of the bank appears to be restricted to the 0.005 acres along with the showroom as described hereinabove. It does not appear that the bank had proceeded in respect of the excess land as alleged by Mr. Ali. The bank’s claims shall be restricted only to the schedule as stated hereinabove.
- 9) It is submitted that the sale has taken place but the certificate is yet to be issued. The bank can proceed with the said formalities.
- 10) Accordingly, the appeal and the connected the application are disposed of. The other legal

remedies available to the appellant are kept open.

11) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings. The order impugned is set aside.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)