23.02.2026
SL No.20
Court No.6
(gc)

CO 1788 of 2025

Mukul Sarkar
Vs.
Punjab National Bank & Anr.

Mr. Ranjan Kali,
Ms. Mitul Chakraborty,
Ms. Payel Nath
.....for the Petitioner.
Ms. Parna Roy Chowdhury
...for the Opposite Parties/PNB.

1. The petitioner is aggrieved by an order dated April 25, 2025 passed by the learned Debts Recovery Appellate Tribunal at Kolkata in Misc. Appeal No.151 of 2025. By the order impugned, the learned Tribunal dismissed the appeal and directed the DRT-III to endeavour to decide the securitization application expeditiously, after considering the issues raised in the securitization application.

2. Mr. Kali, learned Advocate appearing for the petitioner submits that the District Magistrate's order was under challenge before the DRT. The DRT dismissed the application, inter alia, holding that the District Magistrate covered all the nine points as enunciated under the provisions of Section 14(1)(b) of the SARFAESI Act more or less in passing the order of June 20, 2024. The DRT held that an order under Section 14 of the said Act did not contemplate adjudication of the quantum of debt. The issue before the District

Magistrate was whether there were outstanding dues and whether steps had been taken by the bank by issuing notices under Sections 13(2) and 13(4) of the said Act.

3. The contention of Mr. Kali is that, the fact that payments were made by the borrower and money was received from the Central Government under a particular scheme, ought to have been taken into consideration by the District Magistrate before passing the order.

4. The DRT-III, Kolkata was of the view that the proceeding under Section 14 of the said Act was not an adjudicatory process. Once the District Magistrate was satisfied that the nine points under Section 14 had been complied with by the bank, the District Magistrate only discharged the ministerial function by taking over possession. In my view, the Presiding Officer, DRT-III, Kolkata did not commit any jurisdictional error while deciding the I.A. However, the order was challenged in an appeal and the appeal was also dismissed.

5. The Appellate Tribunal had held that, as possession had already been taken, the appeal had become infructuous. However, as arguments on merits of the order of the District Magistrate had been advanced, the matter was taken up in greater detail.

6. The Tribunal dealt with various judgments of the Hon'ble Apex Court and held that, as per Section 14 of the said Act, if the secured creditor intended to take possession of the secured asset, it must approach either the Chief Metropolitan Magistrate or the District Magistrate by filing an application and the District Magistrate or the Chief Metropolitan Magistrate must proceed to take possession of the secured assets or documents relating thereto, for the same being forwarded to the secured creditor. The role of the Magistrate was simply to assist the secured creditor in taking over possession. The other argument that the District Magistrate had become functus officio after the first order was passed, was also turned down by the learned Tribunal.

7. Relying on a decision of the Hon'ble Apex Court in ***Standard Chartered Bank Vs. Nobel Kumar*** reported at ***(2013) 9 SCC 620***, the Tribunal held that the function of the District Magistrate was a ministerial step and no element of quasi-judicial function or adjudication was attracted. The District Magistrate was only required to decide on the information given in the application and nothing more. Thus, the contention of Mr. Kali that, substantial payment was made, that the bank had received money under the Central Government scheme, and there was a direction passed

by the Lok Adalat for payment, etc. were not really relevant for deciding the application under Section 14, when admittedly there were dues. The quantum of dues may have varied, which will be decided in the S.A. Moreover, whether the bank could have proceeded after the order of the Lok Adalat, etc. are also issues, which will be decided in the S.A. It is a fact that, the order of the Lok Adalat was not complied with by the petitioner and it also a fact that the petitioner tried to settle the matter, but did not obey the terms of settlement. At this stage, the property has been sold and it is submitted by the bank that the right of redemption was also not exercised by the petitioner.

8. Under such circumstances, the order of the District Magistrate cannot be questioned at this stage.

9. Accordingly, the revisional application is dismissed.

10. However, any observation on the merits of the S.A. that may have surfaced in the order passed by the learned Appellate Tribunal shall be ignored by the DRT-III when the S.A. is decided. The SA will be decided independently and on its own merits.

11. There shall be no order as to costs.

12. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)