05.10.2026
Ct. No.446
Sl. No.2
akd

W. P. A. 19200 of 2026

[Smt. Ambika Sarkar -Vs- IDBI Bank Limited & Ors.]

Mr. Masud Karim
Mr. Asif Reja Ansary
Mr. Aminur Miah
... ... for the petitioner

1. Affidavit-of-service filed in Court today is taken on record. Despite service, none appears on behalf of the respondents.

2. Fundamentally, the present writ petition has been preferred challenging the order dated 12th June, 2026, passed by the Chief Judicial Magistrate, North 24-Parganas at Barasat, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, "the SARFAESI Act"), in respect of the secured asset.

3. Shortly stated, the facts leading to the presentation of the present writ petition are that, by creating an equitable mortgage over a property being a residential building located at Magnolia Oxygen, Rajarhat, Kolkata, North 24-Parganas, a home loan facility to the tune of Rs. 68,53,659/- was availed from the respondent/IDBI Bank Limited (hereinafter referred to as "the Bank"). However, the borrower defaulted in repayment of the loan. Accordingly, the secured creditor initiated action under the SARFAESI Act. A notice under Section 13(2) of the SARFAESI Act, followed by a notice under Section 13(4) of the said Act, was issued. Subsequently, the secured creditor invoked Section 14 of the SARFAESI Act by preferring an application before the learned Chief Judicial Magistrate, North 24-Parganas at Barasat.

4. The record reveals that, by an order dated 12th June, 2026, the learned Chief Judicial Magistrate allowed the

application presented before it under Section 14 of the said Act and deputed one Sri Amit Sarkar to take over physical possession of the secured asset. In addition thereto, the Officer-in-Charge, Rajarhat Police Station, was directed to render police assistance to Sri Sarkar during the process of delivery of possession of the secured asset.

5. Mr. Karim, learned Advocate appearing for the petitioner, submits that the petitioner is the widow of Late Indranil Das. He further submits that the father of the said Sri Das was the borrower and Sri Indranil Das happened to be the guarantor and co-borrower. He also submits that the entire action under the SARFAESI Act has been initiated against a dead person. Therefore, such action cannot be sustained in the eye of law. According to him, unless an interim order restraining the Bank from taking any steps to take over physical possession of the secured asset is passed, the petitioner will be highly prejudiced.

6. Heard the learned Advocate appearing for the petitioner and perused the materials on record.

7. The legislature has consciously employed the expression “any person” in Section 17 of the SARFAESI Act. If the petitioner considers herself aggrieved by any of the measures taken by the secured creditor, either under Section 13(4) or Section 14 of the SARFAESI Act, she has an efficacious alternative statutory remedy to approach the Debts Recovery Tribunal (in short, “DRT”) by preferring an application under Section 17 of the said Act.

8. In a catena of decisions, the Hon’ble Supreme Court has deprecated the practice of entertaining a writ petition which is primarily filed to interdict recovery proceedings. Reference may be made to the decision of the Hon’ble Apex Court in the case of

PHR Invent Educational Society v. UCO Bank & Ors., reported in (2024) 6 SCC 579.

9. Since the present writ petition has been filed without exhausting the efficacious alternative statutory remedy available to the petitioner, I am not inclined to entertain the present writ petition.

10. In such circumstances, the writ petition is dismissed.

11. However, this order shall not preclude the petitioner from approaching the appropriate forum for redressal of her grievances, in accordance with law.

12. With these observations and directions, WPA 19200 of 2026 is dismissed.

13. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall be deemed to have not been admitted by the respondents.

14. There shall be no order as to costs.

15. Let urgent Photostat certified copy of this order be made available to the parties, if applied for, upon compliance of usual formalities.

(Partha Sarathi Chatterjee, J.)