08.10.2026
sl.8
Ct No. 446
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**WPA 22572 of 2026**

***[Anurag Choudhary -Vs- The Governor, Reserve Bank of India & Ors.]***

Mr. Sabyasachi Mukherjee
Ms. Soheli Mukherjee
Mr. Ranbeer Halder
Ms. Debjani Chakraborty
... ... for the petitioner

Mr. Sayak Ranjan Ganguly
Ms. Srijani Ghosh
Ms. Simrin Hussain
... ... for respondent nos.2 & 3

1. The present writ petition has been filed primarily praying for the following relief:

> "A writ in the nature of mandamus commanding the respondents, their men, agents, servants and/or assigns to forthwith remove the lock and restore the petitioner to peaceful and vacant possession of the shop measuring approximately 145 sq.ft. situated at District North 24 Parganas, PS Titagarh, within Barrackpore Municipality, ward no. 24, Mouza Chandanpukur, RS Dag no. 1206, together with all rights and appurtenances attached thereto."

2. Briefly stated, the facts leading to the presentation of the present writ petition are that the petitioner purchased the shop room from one Jayanta Kumar Dutta by virtue of a deed of conveyance, which was registered in the year 2019. The said Jayanta Kumar Dutta had, in turn, purchased the property from its erstwhile owners, being the four members

of the Rakshit family, namely, Smt. Tripti Rakshit, Kaustav Rakshit, Kumari Manami Rakshit and Kumari Ajanta Rakshit, by virtue of Deed No. 03521, registered on 9th June, 2011.

3. However, subsequently, the respondent secured creditor, namely, Piramal Finance Ltd., affixed a possession notice on the outer door of the shop room. Upon making enquiries, the petitioner came to learn that, in the year 2016, the aforesaid four persons, namely, Smt. Tripti Rakshit, Kaustav Rakshit, Kumari Manami Rakshit and Kumari Ajanta Rakshit, had availed of a credit facility from Piramal Finance Ltd. by creating an equitable mortgage over the property in question. In such circumstances, the petitioner has been constrained to approach this Court by way of the present writ petition, inter alia, seeking a direction upon the concerned respondent to remove the lock and restore possession of the property in question to the petitioner.

4. Mr. Mukherjee, learned Advocate appearing for the petitioner, submits that the Bank cannot claim any security interest over the property merely on the strength of the equitable mortgage created by the borrowers, particularly when, at the time of creation of such mortgage, the borrowers themselves had no right, title or interest in the property in question.

5. In response, Mr. Ganguly, learned Advocate appearing for the respondent nos. 2 and 3, submits that the

genuineness and validity of the deed of conveyance allegedly executed in favour of the petitioner in the year 2019, as also the deed allegedly executed in favour of the petitioner's predecessor-in-interest, namely, Jayanta Kumar Dutta, in the year 2011, require proper examination. He, however, submits that the petitioner may be relegated to the learned Tribunal to agitate all such issues by filing an appropriate application.

6. Heard learned Advocates appearing for the respective parties and perused the materials on record.

7. Undisputedly, the petitioner's predecessor-in-interest, namely, Jayanta Kumar Dutta, purchased the property by virtue of a deed of sale registered in the year 2011. Thereafter, the petitioner purchased the said property by virtue of another deed of sale registered in the year 2019, whereas the equitable mortgage in respect of the property was created by the borrower in the year 2016. Thus, it prima facie appears that, at the time when the equitable mortgage was created in favour of the Bank, the borrower had no subsisting right, title or interest in the property in question. The question as to whether, in such circumstances, the Bank could have acquired any security interest in respect of the said property requires examination.

8. As regards the submission advanced by Mr. Ganguly that the petitioner may be relegated to the Debt Recovery Tribunal, a useful reference may be made to the decision of the Hon'ble Apex Court in *Central Bank of India v. Prabha*

*Jain*, reported in *(2025) 4 SCC 38*, wherein it was held that, having regard to the provisions of Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the "SARFAESI Act"), a civil court is precluded from deciding an issue which falls within the jurisdiction of the Debt Recovery Tribunal. Needless to mention, the Tribunal is required to act within the four corners of the SARFAESI Act and cannot adjudicate upon the validity or authenticity of a deed. Any dispute as to the validity or genuineness of a deed falls within the domain of the civil court.

9. In the facts and circumstances of the present case, since the secured creditor has also raised a dispute as to the genuineness and authenticity of the petitioner's deed of sale, as well as the earlier deed of sale in favour of the petitioner's predecessor-in-interest, the civil court would be the appropriate forum to adjudicate such dispute. Any suit instituted for determination of the validity and genuineness of the said deeds would not, therefore, be barred by Section 34 of the SARFAESI Act.

10. In view thereof, the possession notice dated 9th December, 2025 is hereby set aside. Respondent no. 1 is directed to restore possession of the property in question to the petitioners forthwith. The respondents shall, however, stand restrained from taking any coercive steps in respect of the said property for a period of two months from date, so as to enable the petitioners to approach the competent Civil

Court and seek appropriate interim relief in accordance with law.

11. It is clarified that, within the aforesaid period of two months, the petitioners shall institute an appropriate suit before the competent Civil Court and seek appropriate interim relief therein. In the event the petitioners fail to institute such suit and seek interim protection within the said period, the protection granted by this Court shall stand vacated automatically.

12. It is further clarified that this Court has not expressed any opinion on the validity or genuineness of the deed of conveyance executed in favour of the petitioner, the deed of mortgage executed in favour of the respondent, or the respective deeds executed in favour of Jayanta Kumar Dutta in the year 2011 and the petitioner in the year 2019. All questions in this regard are left open for determination by the competent civil court. The question as to whether possession of the property ought ultimately to remain with the petitioners shall also abide by the determination of the Civil Court while considering the petitioners' application for interim relief.

13. With the aforesaid observation, the writ petition is disposed of.

14. Since no affidavit has been called for, the allegations contained in the writ petition shall be deemed not to have been admitted.

15. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

**(Partha Sarathi Chatterjee, J.)**