

WPA 23651 of 2025

Bhabasindhu Biswas
Vs.
Aditya Birla Capital Limited & Ors.

Mr. Sarosij Dasgupta
Mr. Steven S. Biswas
.... for the petitioner

Mr. Anuj Singh
Ms. Trinisha De
Mr. Ashok Kumar Singh
Ms. Rupal Singh
Ms. A. Poddar
Mr. Shivam Chaturvedi
..... for the respondents no. 1 & 2

1. The petitioner is aggrieved that a portion of his land, which comprises of three shop rooms, has been unlawfully possessed by the financial company in SARFAESI action against the borrower, with whom the petitioner has no commercial relation.
2. Mr. Singh, learned Advocate appearing for the Bank, is insistent that the shop rooms, belonged to the borrower, were indeed part of the mortgaged property, pursuant whereeto, in terms of an order, passed by the concerned authority on April 29, 2025, under Section 14 of the Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the

“SARFAESI Act”), the financial company has taken possession.

3. The facts are in dispute and are difficult to ascertain in this proceeding. The petitioner, alleging to be the owner of the land, which has been possessed by the concerned financial company allegedly dispossessing the petitioner from the land.
4. The financial company, on the other hand, has relied on certain documents, which are kept on record, to show that the concerned financial company has taken possession of only that property which was mortgaged by the borrower.
5. These facts, as aforestated, are not only disputed but are difficult to ascertain. The rights of the petitioner would be adjudicated and protected in a civil proceeding before a civil court.
6. The petitioner has also slept over his rights and not taken the statutory remedy available under the SARFAESI Act. The time for the same has long lapsed. However, the same cannot non-suit the petitioner entirely and the petitioner is at liberty to approach a civil court for establishing and protecting his rights.
7. With the aforestated directions, the writ petition is disposed of.
8. There shall, however, be no order as to costs.

9. Since no affidavit has been called for, the allegations contained in the writ petition are deemed to be denied.
10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Reetobroto Kumar Mitra, J.)