01.10.2026
Sl. No. 8
Ct No. 446
SG

WPA 27427 of 2026

Asha Keshari @ Asha Devi
Vs
State of West Bengal & Ors.

Mr. K.C. Nag,
Ms. Sunitta Agarwal.
...for the petitioner

Ms. Sumita Sarkar.
...for the State

1. Fundamentally, the present writ petition has been preferred seeking to restrain the respondent-Bank from taking physical possession of the secured asset and to restrain the concerned police authorities from rendering police assistance to the Bank in taking over physical possession of the secured asset.

2. Mr. Nag, learned Advocate appearing for the petitioner, submits that the petitioner is a co-owner of the premises bearing No. D-255, Trenching Ground Road, P.S. Rabindra Nagar, Kolkata – 700024. However, by creating an equitable mortgage over the premises, one S. P. Builders, despite having no relation with the said property, availed itself of a credit facility from the respondent-Bank. The borrower defaulted in repayment of the loan and, accordingly, the secured creditor took action under the SARFAESI Act (for short, "the Act"). Ultimately, the secured creditor obtained an order under Section 14 of the Act from the District Magistrate, South 24 Parganas. He submits that subsequently, a request was made to the Superintendent of Police through Rabindra Nagar Police Station to render police assistance by a communication dated 2nd December, 2025. He submits that now the secured creditor

is now going to take over physical possession of the premises. Accordingly, immediate intervention of this Court is warranted. He further submits that unless an interim order is passed restraining the respondent from taking over physical possession of the premises, the petitioner will be highly prejudiced.

3. Ms. Sarkar, learned Advocate appears on behalf of the State.

4. The record would reveal that the petitioner has filed a title suit being T.S. No. 305 of 2023 against the respondent-Bank, the District Magistrate, South 24 Parganas, and one Gautam Shaw. The said suit is pending consideration before the Civil Judge (Senior Division), Alipore, South 24 Parganas. The petitioner also preferred a writ petition being WPA 24057 of 2025, in which a similar issue was raised. However, taking note of the said civil suit, as well as upon further consideration that disputed questions of fact were involved in the said writ petition and that the petitioner had an alternative efficacious remedy, the said writ petition was dismissed by an order dated 28th November, 2025. The said order has not been challenged by filing an intra-court appeal. Accordingly, the said order is binding upon the petitioner, and the principles of res judicata and constructive res judicata would also apply. Therefore, the petitioner cannot renew the same prayer or raise the self-same issue by preferring another writ petition.

5. Considering these facts, the writ petition is dismissed. However, there shall be no order as to costs.

6. This order shall not preclude the petitioner from approaching the appropriate forum for redressal of his grievance, in accordance with law.

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

(Partha Sarathi Chatterjee, J.)