06.10.2026
Sl. No. 12
Ct No. 446
SG

WPA 28591 of 2026

Jaynal Abedin
Vs
The State of West Bengal & Ors.

Mr. Ashim Kumar Routh,
Ms. Manishka Dhar,
Mr. Subhayan Barik.
...for the petitioner

Mr. Lokenath Chatterjee,
Mr. Jaganath Chatterjee.
...for the State

Ms. Ishita Ghosh.
...for respondent no. 5

1. Affidavit-of-service as filed by the petitioners is taken on record.

2. Fundamentally, the present writ petition has been preferred challenging the order dated 20th July, 2026 passed by the learned 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 (for short, "the Act"), in Misc. Case No. 208 of 2026.

3. Mr. Routh, learned Advocate appearing for the petitioner, submits that the learned Chief Judicial Magistrate had no jurisdiction to pass the impugned order and, accordingly, the petitioner has invoked the extraordinary jurisdiction of this Court to assail the said order dated 20th July, 2026, which was communicated to the petitioner by a letter dated 24th September, 2026.

4. He further submits that the loan was sanctioned by creating an equitable mortgage over agricultural land in contravention of Section 31 of the Act and that the notice under Section 13(2) of the Act was never served upon the borrower. He further submits that several irregularities are apparent from the nine-point affidavit filed by the creditor in support of its application under Section 14 of the Act. According to him, all such issues have been glossed over by the learned Chief Judicial Magistrate. He further submits that the impugned order is a product of collusion, as no remuneration was fixed for the person deputed to take over physical possession of the secured asset. According to him, the failure to fix such remuneration itself indicates the collusive nature of the impugned order. He submits that, unless the order passed by the learned Chief Judicial Magistrate is set aside, the petitioner will suffer irreparable prejudice.

5. In rebuttal, Ms. Ghosh, learned Advocate appearing for the respondent no. 5, submits that, challenging the notice issued under Section 13(4) of the Act, the petitioner has already preferred an application under Section 17 of the Act. However, a copy of the said application has not yet been served upon the respondent no. 5. She further submits that the petitioner is at liberty to challenge the order passed under Section 14 of the Act before the learned Tribunal by filing an appropriate interlocutory application in the proceedings already instituted under Section 17 of the Act. However, without exhausting the statutory alternative remedy available to the petitioner, the present writ petition has been preferred. She, therefore, submits

that the writ petition is not maintainable on this ground. She further submits, upon instruction, that although the order under Section 14 of the Act has already been passed, the amount towards the cost of providing police assistance has not yet been deposited by the secured creditor.

6. In a catena of decisions, the Hon'ble Apex Court has deprecated the practice of entertaining writ petitions filed primarily for the purpose of interdicting recovery proceedings, particularly where the aggrieved party has an efficacious statutory alternative remedy available and has approached the writ Court without exhausting such remedy. A useful reference in this regard may be made to the recent judgment of the Hon'ble Apex Court in PHR Invent Educational Society v. UCO Bank & Ors., reported in (2024) 6 SCC 579.

7. In the present case, the petitioner has already invoked the remedy under Section 17 of the Act, challenging the measures taken by the secured creditor under Section 13(4) thereof. The application filed by the petitioner, being TSA Case No. 1333 of 2026, is presently pending for final adjudication before the learned Tribunal. The petitioner is, therefore, at liberty to take appropriate steps before the learned Tribunal, including by filing an appropriate application, if he is aggrieved by the order passed under Section 14 of the Act. At this stage, entertaining the present writ petition would amount to permitting the petitioner to pursue a parallel remedy before another forum and would, in effect, amount to putting a premium on such an approach.

8. Having regard to the facts and circumstance of the case, I am not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

9. However, it is clarified that this order shall not preclude the petitioner to approach the appropriate forum for redressal of his grievance in accordance with law.

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

(Partha Sarathi Chatterjee, J.)