14.10.2026
Sl. No. 14
Ct No. 446
SG

WPA 29208 of 2026

Ramen Das
Vs
Union of India & Ors.

Mr. Samir Ranjan Aich.
...for the petitioners

Mr. Bhaskar Mukherjee,
Mr. D. Dutta.
...for the respondent no. 6

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

2. Fundamentally, the present writ petition has been preferred challenging the justifiability of the measures taken by the secured creditor under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the Act").

3. Mr. Aich, learned Advocate appearing for the petitioner, submits that the petitioner has not received any notice issued by the secured creditor either under Section 13(2) or under Section 13(4) of the Act. Therefore, if any action is taken by the secured creditor to take physical possession of the secured asset, the same would be unsustainable in the eye of law. He submits that, in view of the same, an interim order needs to be passed restraining the respondent-secured creditor from taking physical possession of the secured asset.

4. Mr. Mukherjee, learned Advocate appearing for the respondent no. 6, submits that, upon the petitioner's failure to

repay the loan as per the repayment schedule, the loan account was classified as an NPA and, thereafter, the secured creditor initiated action under the Act. He further submits that the notice under Section 13(2), followed by a notice under Section 13(4) of the Act, was affixed to the outer wall of the premises and that the petitioner has also admitted this fact in paragraph 10 of the writ petition. He further submits that the present writ petition is not maintainable, since the same has been filed without exhausting the statutory remedy available to the petitioner.

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

6. The petitioner availed a loan facility of Rs. 45 lakhs from the respondent no. 6 by creating an equitable mortgage over the property, particulars of which are detailed in paragraph 3 of the present writ petition. However, upon the petitioner's failure to adhere to the repayment schedule, the loan account was classified as an NPA and, subsequently, the secured creditor initiated measures under the Act. A notice under Section 13(2) of the Act, followed by a notice under Section 13(4) of the Act, was issued and, as claimed by the petitioner, the same was affixed to the outer wall of the secured asset, being a residential flat bearing no. 408, located on the 4th floor of premises no. 24, under Mudgal Antara Abasan, P.S. Thakurpukur, Kolkata – 700104, lying within the territorial jurisdiction of Ward No. 144 of the KMC.

7. In a catena of decisions, the Hon'ble Supreme Court has deprecated the practice of entertaining writ petitions primarily

preferred to interdict recovery proceedings. A useful reference may be made to the decision of the Hon'ble Supreme Court reported in (2024) 6 SCC 579 (PHR Invent Educational Society vs. UCO Bank & Ors.).

8. Since the present writ petition has been filed without exhausting the effective statutory alternative remedy, I am not inclined to entertain the same. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

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

10. Since no affidavits have been called for from the respondents, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

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

(Partha Sarathi Chatterjee, J.)