OD-9

ORDER SHEET
APO/95/2025
IA No.GA/1/2025

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

M/S. SUPERB DRUGS PVT. LTD. AND ORS.
VS
IDBI BANK AND ANR.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE APURBA SINHA RAY
Date : 21st January, 2026

Appearance:
Mr. Arijit Bardhan, Adv.
Mr. Prasenjit Paul, Adv.
Mr. Avirup Chatterjee, Adv.
Mr. Rishov Das, Adv.
Mr. Gourab Mondal, Adv.
..for the appellants

Mr. Shaswat Nayak, Adv.
Ms. Rituparna Sanyal, Adv.
Ms. Siddhi Agarwal, Adv.
..for the respondents

Dictated by Arijit Banerjee, J.

The Court: Read order dated January 9, 2026.

An order under Section 14 of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "SARFAESI Act") was passed by the concerned Magistrate on February 27, 2024. The order was served on the appellants herein on April 26, 2024. The appellants had 45 days to approach the Debts Recovery Tribunal challenging the said order. Without doing so, the appellants approached a learned Judge of this Court in the Writ Jurisdiction assailing the Section 14 order. Initially, an interim order dated May 21, 2024, was passed by the learned Single Judge. When the writ petition subsequently came up for final hearing, by the impugned order, the learned Single Judge dismissed the writ petition solely on the ground of availability of an alternative remedy by way of a proceeding under Section 17 of the SARFAESI Act. Hence this appeal at the instance of the writ petitioners/ borrowers.

We have heard learned counsel for the parties for quite some time. In view of the fact that there indeed exists an alternative remedy which, according to us, is an efficacious one, in the form of an application under Section 17 of the SARFAESI Act, we are not inclined to interfere with the order of the learned Single Judge.

A question arose whether or not the period of 45 days granted by Section 17 of the SARFAESI Act would start running from the date of the Section 14 order or from the date of the borrowers' knowledge of the order. In our opinion, the 45 days will start running from the date of service of the order on the borrowers. Otherwise, the mechanism of challenge provided by Section 17 of the SARFAESI Act may become illusory. If the order is served on the borrowers more than 45 days after the date of the order, the borrowers will not be entitled to invoke Section 17, if it is held that the time of 45 days starts running from the date of the order irrespective of whether or not the borrowers had knowledge of the order.

A similar view has been taken by a learned Single Judge of this Court in WPA/18157/2022 *(M/s. Deecon India Pvt. Ltd. & Ors. vs. Canara*

Bank & Ors.) by an order dated November 24, 2022. Further, that service of Section 14 order on the borrowers is mandatory before an action is taken against the secured assets, has been held by a Division Bench of the Allahabad High Court in the case of *Shipra Hotels Limited vs. State of U.P.* reported in AIR OnLine 2022 ALL 696, paragraph 52.

We, therefore, see that the appellants approached the learned Single Judge within the period of 45 days from the date of knowledge of the order. The learned Judge rightly, in our opinion, dismissed the writ petition since it was open to the appellants/ writ petitioners to challenge the Section 14 order before the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. We see no apparent infirmity in the order impugned before us.

Hence, this appeal fails and is dismissed along with the connected application.

However, the appellants will be at liberty to approach the Debts Recovery Tribunal by January 30, 2026 with a prayer for extending the benefit of Section 14 of the Limitation Act to them. If the same is done, the Tribunal is requested to decide the application/ prayers of the appellants before us in accordance with law. It will be open to the Tribunal to decide whether or not Section 14 of the Limitation Act is applicable to the facts of the present case.

Since we have granted the appellants leave to approach the Debts Recovery Tribunal, it is expected that till January 30, 2026, the bank shall not take any coercive step against the secured assets. We also clarify that if a prayer is made by the appellants before the Debts Recovery Tribunal for extension of the interim protection, the same shall be decided by the Tribunal strictly in accordance with law, without being influenced by the fact that we have granted limited protection to the appellants.

(ARIJIT BANERJEE, J.)

(APURBA SINHA RAY, J.)

bp.