14.10.2026
Ct. No.446
Sl. No.4
akd

W. P. A. 28147 of 2026

[IIFL Home Finance Limited& Anr. -Vs- State of West Bengal& Ors.]

Mr. Avishek Guha
Ms. Arunika Dutta
... ... for the petitioners

Mr. Sayak Majumder
... ... for respondent no. 6

Mrs. Aparna Banerjee .. ld. A.G.P.
Mr. Shiv Shankar Banerjee
Ms. Kakali Dutta
Ms. Manisha Paswan
... ... for the State

1. The present writ petition has been preferred primarily praying for the following relief:

> "A Writ of Mandamus directing Respondent no. 2 to take all necessary steps, including police assistance, for restoration and re-delivery of physical possession of the secured asset to the petitioner pursuant to the order dated 4th March, 2025 passed under Section 14 of the SARFAESI Act, 2002, by removing the borrower and/or any unauthorized occupants therefrom."

2. Succinctly stated, the facts leading to the presentation of the instant writ petition are that the private respondents had availed themselves of a credit facility from the petitioners. However, subsequently, they failed to adhere to the repayment schedule, and consequently, the loan was classified as a Non-Performing Asset (for short, "NPA"). The petitioners, being the secured creditors, initiated measures under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the SARFAESI Act"). The petitioners obtained an order dated 4th

March, 2025, from the learned Additional Chief Judicial Magistrate, Barasat, North 24-Parganas, under Section 14 of the SARFAESI Act. Pursuant to the said order, the petitioners took physical possession of the secured asset. However, subsequently, the private respondents forcibly trespassed into the property and dispossessed the petitioners. In view of the aforesaid circumstances, the petitioners have been compelled to prefer the present writ petition.

3. Mr. Guha, learned Advocate appearing for the petitioners, submits that there is no impediment on the part of the learned Additional Chief Judicial Magistrate, Barasat, North 24-Parganas, in implementing the order previously passed under Section 14 of the SARFAESI Act for taking possession of the property in question. He further submits that the private respondents are attempting to frustrate the petitioners' efforts to obtain possession of the said property by creating confusion regarding the identification of the land. He also submits that the land in question has been identified as land comprising a pucca structure. In support of his submissions, he places reliance upon an unreported decision of this Court in PNB Housing Finance Limited & Anr. vs. State of West Bengal & Ors. (WPA 13222 of 2024).

4. Mrs. Banerjee, learned Advocate appearing for the State respondents, places a report on record and submits that the concerned police authorities are ready and willing to comply with any direction that may be passed by this Court and to extend all necessary assistance in accordance with law. The report filed on behalf of the State respondents is taken on record.

5. Mr. Majumder, learned Advocate appearing for the respondent no. 6, submits that an equitable mortgage was created in respect of Plot No. 589 of Mouza: Sirajpur, P.S. Deganga, District: North 24-Parganas. However, pursuant to the order dated 4th March, 2025, the secured creditor has taken possession of the land comprised in Plot No. 589 as well as Plot No. 588. He further submits that the respondent no. 6 has no objection if the secured creditor takes possession of the land comprised in Plot No. 589 of Mouza: Sirajpur. He also submits that a suit has been instituted by the private respondents against the petitioners in respect of Plot Nos. 588 and 590, respectively. However, the secured creditor has not appeared in the said suit till date.

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

7. Undisputedly, the secured creditor obtained an order dated 4th March, 2025, passed by the learned Additional Chief Judicial Magistrate, Barasat, North 24-Parganas, under Section 14 of the SARFAESI Act, authorising the petitioners to take physical possession of the land in respect of which an equitable mortgage had been created by the private respondents to secure the credit facility availed of by them. The petitioners claim to have taken physical possession of the secured asset pursuant to the said order. It transpires from the schedule appended to the order dated 4th March, 2025, that the petitioners were authorised to take physical possession of the parcel of land bearing Plot No. 589, Mouza Sirajpur. However, it is alleged that, after the petitioners had taken physical possession of the secured

asset, the borrowers forcibly entered the property in question and dispossessed the petitioners therefrom.

8. The borrowers seek to justify their action by contending that Plot Nos. 588, 589 and 590 are contiguous parcels of land which have not been clearly demarcated and that the petitioners took possession of Plot Nos. 588 and 589. Such contention has been seriously disputed by the petitioners. However, even assuming that the petitioners took possession of Plot No. 588 in addition to Plot No. 589, such circumstance cannot, by any stretch of reasoning, justify the borrowers taking the law into their own hands.

9. A Coordinate Bench of this Court, by an order dated 16th May, 2024, passed in WPA 13222 of 2024, observed that there is no statutory restriction on the District Magistrate or the Chief Judicial Magistrate, as the case may be, in implementing an order passed by such authority through all means permissible in law. I do not find any justification to disagree with that view.

10. In view thereof, the learned Additional Chief Judicial Magistrate, Barasat, North 24-Parganas, is empowered to take all necessary steps in accordance with law to implement the order dated 4th March, 2025, including restoration of possession of the parcel of land bearing Plot No. 589 to the petitioners.

11. The petitioners are directed to deposit the costs towards providing police assistance for the purpose of restoring possession of Plot No. 589.

12. The private respondents are directed to assist the police personnel who will be deputed to hand over physical possession of the land in respect of which the equitable mortgage was created by them to avail themselves of the credit facility.

13. The entire exercise shall be completed within four weeks from the date of deposit of the costs towards rendering police assistance.

14. With these observations and directions, WPA 28147 of 2026 is disposed of.

15. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall be deemed to have not been admitted by the respondents.

16. There shall be no order as to costs.

17. Let urgent Photostat certified copy of this order be made available to the parties, if applied for, upon compliance of usual formalities.

(Partha Sarathi Chatterjee, J.)