30.06.2026.
Court No. 6
Item No. 23
ap

CO/2066/2026

Sk. Samir Ali & Ors.
Versus
Canara Bank & Anr.

Mr. Siddhartha Banerjee,
Mr. Paritosh Sinha,
Mr. Samrat Mukherjee,
Mr. Shounak Mukhopadhyay,
Mr. Rajeev Maity,
Mr. Vidush Sinha,
Ms. Sambrita B. Chatterjee,
Mr. Pranit Biswas,
Mr. Rajiv Kumar.
…For the petitioners.

Mr. Farooque Ali.
…For the respondent Bank.

The order dated 25th June, 2026 passed by the Debts Recovery Tribunal-II, Kolkata-in-charge of Debts Recovery Tribunal-III, Kolkata in I.A. No. 5194 of 2025 arising out of S.A. No. 298 of 2025 is under challenge in this application under Article 227 of the Constitution of India.

I.A. No. 5194 of 2025 was filed challenging the order passed under Section 14 of the SARFAESI Act, 2002 dated 20th November, 2025. The said interlocutory application came up for hearing on 25th June, 2026 and the same was dismissed by the order impugned.

The learned Advocate appearing for the Bank raises an objection as to the entertainability of this application under Article 227 of the Constitution of

India in view of the alternative and efficacious remedy available under Section 18 of the SARFAESI Act, 2002.

Faced with such submission, Mr. Banerjee, learned Advocate appearing for the petitioners submits that though the order of the Debts Recovery Tribunal is dated 25th June, 2026 but the same was uploaded in the official website only on 27th June, 2026 and thereafter the petitioners have approached this Court. He further submits that today (30.06.2026) is the date fixed for taking over possession of the secured assets by the secured creditor.

Mr. Banerjee further submits that on earlier occasion, an order passed under Section 14 of the SARFAESI Act, 2002 was challenged before the Debts Recovery Tribunal-I, Kolkata and the learned Tribunal, by an order dated 30th September, 2024, directed the Bank to wait for order of the Tribunal before taking possession of the properties. He also submits that in utter disregard of the order of the Tribunal, a fresh notice under Section 13(2) of the SARFAESI Act, 2002 was issued and steps under Section 13(4) of the said Act been initiated.

Mr. Banerjee submits that the Bank approached the concerned Magistrate for taking possession of the secured assets of the petitioners and an order was passed by the concerned Magistrate under Section 14 of the SARFAESI Act, 2002 on 20th November, 2025 which was impugned in I.A. No. 5194 of 2025.

Mr. Banerjee submits that the Bank is trying to frustrate the statutory right of appeal by taking steps to take over possession of the secured assets from the petitioners. He submits that if this Court is minded to relegate the petitioners to the appropriate Appellate Forum, an interim protection for a limited period should be granted.

A copy of the civil revisional application has been served upon the learned Advocate appearing for the Bank just before the commencement of hearing of this civil revisional application.

After hurriedly going through the said civil revisional application, the learned Advocate for the Bank disputes the submissions made by Mr. Banerjee. He submits, upon taking instructions from the Officer of the Bank who is present in Court, that the earlier order under Section 14 of the SARFAESI Act, 2002 was renewed by an order dated 20th November, 2025. He, however, submits that some time may be afforded to the Bank to revert back with necessary instructions.

Heard the learned Advocates for the respective parties and perused the materials placed.

Record reveals that the petitioners approached the Debts Recovery Tribunal challenging the order of the District Magistrate, South 24 Parganas dated 23rd

July, 2024 in I.A. No. 2158 of 2024 and the Tribunal, by an order dated 30th September, 2024, directed the Bank to wait for order of the Tribunal before taking possession of the properties.

Mr. Banerjee, learned Advocate appearing on behalf of the petitioners submits that after the order dated 30th September, 2024 has been passed, a fresh notice under Section 13(2) of the SARFAESI Act, 2002 was issued.

On the other hand, learned Advocate for the Bank submits that the earlier order under Section 14 of the SARFAESI Act, 2002 was renewed by a subsequent order dated 20th November, 2025.

Since disputed questions of law and facts are involved in this matter, this Court is inclined to relegate the petitioner to the Appellate Forum in accordance with the provisions of Section 18 of the SARFAESI Act, 2002.

On a query of the Court, Mr. Banerjee, learned Advocate appearing for the petitioners submits that the certified copy of the order dated 25th June, 2026 has been filed along with this civil revisional application. He prays for leave to take back the certified copy of the said order.

In the light of the submissions made by the learned Advocates appearing for the respective parties and considering the fact that an appeal lies against the order impugned and the period of limitation for preferring the appeal is 30 days from the date of the order, this Court is inclined to pass an interim order for a limited period. Unless an interim order is passed, petitioner will suffer irreparable loss and injury as the Bank is taking steps to take possession of the secured asset.

Mr. Banerjee submits that the draft of the proposed appeal is under preparation and the appeal is expected to be filed within two weeks from date.

In the light of the aforesaid submission of Mr. Banerjee, CO/2066/2026 stands disposed of by granting liberty to the petitioners to approach the Appellate Forum in accordance with law.

There shall be an unconditional order of stay of operation of the order dated 20th November, 2025 passed by the learned Additional Chief Judicial Magistrate, South 24 Parganas at Alipore till July 17, 2026.

If an appeal is preferred on or before July 17, 2026, the interim order shall continue till the end of the month of July, 2026 or until further orders, whichever is earlier.

In the event the petitioners approach the Appellate Tribunal within the time indicated hereinabove, the learned Appellate Tribunal shall make an endeavour to take up the matter for hearing for the purpose of consideration of the prayer for interim order, if any.

It is, however, made clear that if any application for interim relief is filed, the learned Appellate Tribunal shall be free to decide the same in accordance with law subject to compliance of all formalities in that regard.

Since the civil revision application is being disposed of by passing an interim order, this Court is not inclined to allow the prayer for taking back the certified copy of the impugned order.

The petitioners and the Bank will be at liberty to communicate this order to the Police Authority in the event possession is sought to be taken in the meantime.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)