04.08.2026
Item No.08 (DL)
Court No.07
AJ.

**IN THE HIGH COURT AT CALCUTTA**
**CONSTITUTIONAL WRIT JURISDICTION**

**W.P.A. 18897 of 2026**

**Mr. Ramjan Ali Laskar**
**-Vs-**
**The State of West Bengal & Ors.**

Mr. Sreyash Basu Dasgupta,
Sk. Md. Sahadullah.
...for the petitioner.
Mr. Subid Majumdar,
Mr. Sarban Bhattacharjee.
...for the State.

1. Affidavit of service filed in Court today is taken on record.

2. None appears for the respondent nos. 3 to 5.

3. This writ petition assails the action taken by the respondent nos. 3 and 5 under the provisions of Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

4. The petitioner is a borrower under a home loan facility which stands secured by the flat which was purchased using the said facility. The petitioner had availed such facility from the respondent no.3. The loan account was subsequently assigned by the respondent no.3 to the respondent no.5.

Prior to the assignment, the respondent no.3 had initiated proceedings under the 2002 Act by issuing statutory notice of demand under Section 13(2) of the said Act of 2002.

5. Upon assignment, the respondent no. 5 has put up the said property (that has been mortgaged by the petitioner with the respondent no.3 to secure the credit facilities) for sale through auction under the provisions of the 2002 Act. The petitioner has approached this Court being aggrieved by the aforesaid action.

6. Learned Advocate appearing for the petitioner submits that although, no notice under Section 13(2) of the 2002 Act was ever served upon the petitioner, yet, it would be evident from the e-auction notice that has been published by the respondent no.5 that the amount stated to be due and owing from the petitioner would be less than Rs. 20 lakh.

7. It is submitted that in terms of the Notification dated February 24, 2020 issued by the Ministry of Finance, which was amended by the subsequent Notification dated February 12, 2021 a non-banking financial institution would have authority to

initiate proceedings under the 2002 Act only if the secured debt is above the threshold limit of Rs.20 Lakh. In support of his such submission, he also relies on a judgment of the Hon'ble Division Bench of this Court in the case of ***Piramal Capital & Housing Finance Limited & Ors. –Vs- Golam Sabir & Ors.*** reported at ***2026 SCC Online Cal 4803***.

8. It is the petitioner's case that the petitioner is not in possession of the flat and that physical possession thereof is with the respondent no.5.

9. It is noticed that the sale is scheduled to be held tomorrow i.e. on August 05, 2026. The writ petition was filed on July 28, 2026.

10. Having perused the notifications dated February 24, 2020 and February 12, 2021 issued by the Ministry of Finance which have been annexed to the writ petition, this Court is of the *prima facie* view that the respondent nos. 3 and 5 who are Non-Banking Financial Institutions would not be entitled to initiate proceedings under the 2002 Act in the case at hand as the secured debt of the petitioner at the time of issuance of the statutory notice of demand was less than Rs. 20 lakh. The

Hon'ble Division Bench judgment of this Court in ***Piramal Capital & Housing Finance Limited*** (supra) *prima facie* supports the petitioner's case.

11. The e-auction notice clearly indicates that the amount mentioned in the notice of demand under Section 13(2) of the 2002 Act was Rs.19,18,766/-. The Court notes that the total outstanding as on May 13, 2026 has been indicated as Rs.21,71,031.65/-, but then it would be required to be considered as to whether the notice under Section 13(2) could have at all been issued on January 17, 2025 in view of the fact that at that point of time, the secured debt had not crossed the threshold limit of Rs.20 Lakhs so as to enable the financial institution to issue a notice of demand under Section 13(2). The other question which would fall for consideration would be whether during pendency of the proceedings under the SERFAESI Act, if the secured debt crosses over the threshold limit can then the proceedings be maintained.

12. Since a *prima facie* case has been made out, and the petitioner is not in possession of the flat whereof sale is scheduled tomorrow,

therefore it is ordered that sale can continue and even if the auction process is successful and bids are received, sale in favour of the successful bidder will not be confirmed without the leave of Court.

13. The petitioner shall serve a fresh notice on the respondent nos. 3 to 5 intimating them that the matter shall be taken up next on August 11, 2026.

14. List this matter on August 11, 2026. The petitioner shall file affidavit of service on the returnable date.

**(Om Narayan Rai, J.)**