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IN THE HIGH COURT AT CALCUTTA  
CIVIL REVISIONAL JURISDICTION

**CO 3820 of 2024**

Cygnus Pharmaceuticals Private Limited & Ors.  
Versus  
Tata Capital Housing Finance Limited & Anr.

Mr. Suddhasatva Banerjee  
Mr. Gourav Singh  
... For the Petitioners.

Mr. Swatarup Banerjee  
Mr. Asif Hussain  
Mr. Sayak Ranjan Ganguly  
Mr. Pankaj Mukherjee  
Ms. Srijani Ghosh  
Ms. Indrani Majumdar  
... For the opposite parties.

1. Challenging, inter alia, the order dated 30<sup>th</sup> August, 2024 passed by the learned Debts Recovery Appellate Tribunal, Kolkata, in Misc. Appeal No. 10 of 2024, arising out of SA 723 of 2022, whereunder further directions issued by the Chief Judicial Magistrate, Alipore, South 24 Parganas, to take over physical possession of the property in question in a proceeding under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act, 2002), read with the Security Interest (Enforcement) Rules, 2002, had been found to be proper and consequentially having set aside the order dated 6<sup>th</sup> February, 2024 passed by the Debt Recovery Tribunal-III in SA 723 of 2022, the instant revisional

application has been filed.

2. It appears that the primary ground for challenge in the present revisional application is with regard to scope, authority and jurisdiction of the C.J.M., Alipore to pass further orders after having previously exercised jurisdiction under Section 14 of the SARFAESI Act, 2002 vide order dated 7<sup>th</sup> July, 2022. The petitioners contend that once, the C.J.M., Alipore, had passed the order in exercise of powers under Section 14 of the SARFAESI Act, 2002 read with the Security Interest (Enforcement) Rules, 2002, he had rendered himself *functus officio* and as such could not pass any further order or any order ensuring compliance thereof. Although, on a challenge to the above before the Debt Recovery Tribunal-III, Kolkata, the tribunal by an interim order dated 6<sup>th</sup> February, 2024 had restrained the secured creditor from taking any further coercive steps in respect of the secured property on the basis of the order dated 12<sup>th</sup> December, 2023 passed by the learned C.J.M., Alipore, South 24 Parganas, the same was set aside by the Appellate Tribunal.
3. On the other hand, the respondents would argue that the order dated 12<sup>th</sup> December, 2023, is a continuation of the order dated 7<sup>th</sup> July, 2022 and is not an independent order and as such the

argument that the C.J.M., Alipore had rendered himself *functus officio* has no basis.

4. Mr. Banerjee, learned advocate representing the Tata Capital Housing Finance Ltd. would submit that he has instruction not to proceed with the recovery of possession only till 12<sup>th</sup> November, 2024.
5. Having heard the learned advocates appearing for the respective parties and taking note of the jurisdictional issue raised in the instant revisional application inter alia the jurisdiction and authority of the C.J.M., Alipore to pass a further order, I am of the view that the revisional application should be heard.
6. In view thereof, considering the prima facie case and the balance of convenience, I direct that the opposite parties should not take any further steps in the matter till the next date of hearing.
7. The opposite parties shall be at liberty to file affidavit in opposition before the matter is taken up for hearing with an advance copy thereof to the petitioners.
8. List this matter as “Returnable Motion” on 12<sup>th</sup> December, 2024.

**(Raja Basu Chowdhury, J.)**