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Jalpaiguri
20.01.2023
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**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side
From Principal Bench**

WPA 265 of 2023

Sri Debajit Das
Vs.
The United Bank of India and others

Mr. Debabrata Dhar
Mr. Prodyut Kumar Ray

.... for the petitioner.

Mr. Himadri Sikhar Chakraborty
Mr. K.M. Hossain

...for the State.

The writ petition has been preferred against an order passed under Section 14 of the SARFAESI Act.

Learned counsel for the petitioner contends that the petitioner was given an opportunity, by an order dated February 14, 2019 passed by the Debts Recovery Tribunal, Siliguri, to settle the matter upon deposit of an amount of Rs.2 lakh as upfront money within six weeks from that date.

However, the petitioner could not avail of such option. Subsequently the proceeding under Section 14 was initiated.

Thereafter, by the impugned order dated January 19, 2023, a direction for recovery of possession from

the petitioner within the contemplation of Section 14 of the SARFAESI Act has been passed.

However, it is submitted that the petitioner is still willing to settle the outstanding dues upon being granted a few instalments.

Learned counsel also places reliance on a purported e-mail sent by the Bank to the petitioner on February 11, 2022, annexed at page 58 of the writ petition, thereby granting a further opportunity to the petitioner to avail of a special OTS Scheme.

It was apparently mentioned in the said e-mail that the petitioner's NPA account is eligible under the scheme floated by the Bank.

However, the petitioner had approached the Bank prior thereto with the proposal for one time settlement of the outstanding dues.

Be that as it may, it is contended that since the primary purpose of recovery is to realize the outstanding dues, no useful purpose will be served in the event the Section 14 order is implemented prior to the petitioner being given an opportunity to clear the entire outstanding dues.

Upon query of court, learned counsel for the petitioner, on instruction, submits that the petitioner will be able to deposit an amount of Rs. 12 lakh by January 27, 2023 with the Bank.

As such, to enable the Bank to recover the amount from the petitioner and as a last chance to the petitioner, the petitioner is directed to deposit an amount of Rs.12 Lakh without prejudice to the rights and contentions of the parties with the respondent no.1-Bank.

There shall be an injunction against the respondents restraining them and their men and agents from taking any coercive action against the petitioner pursuant to Section 14 of the SARFAESI Act in the meantime.

In the event the petitioner deposits an *ad hoc* amount of Rs. 12 Lakh, as condition of grant of the injunction, by January 27, 2023, the said interim order shall continue till February 28, 2023 or until further order, whichever is earlier. However, if the petitioner fails to deposit the said amount by January 27, 2023, the interim order hereby granted shall stand automatically vacated without further reference to the court

The matter shall be listed before the regular bench in the monthly combined list of February, 2023.

However, leave under Rule 26 is being granted in view of the urgency since it has been submitted that an order was passed by the concerned Magistrate under Section 14 of the SARFAESI Act only yesterday,

which may be implemented against the petitioner at any time.

In any event, the petitioner, in order to prove his *bona fides*, is directed to be prepared with at least a further amount of Rs. 12 Lakh on the next date when the writ petition is taken up for hearing by the regular bench.

It is reiterated that this order will abide by the outcome of the writ petition and the deposits made by the petitioner shall be without prejudice to the rights and contentions of the parties.

The letter dated January 18, 2023 filed in court today be kept on record.

(Sabyasachi Bhattacharyya, J.)