

May 30, 2025
ARDR (41)
(Vacation Bench)

WPA 12139 of 2025

Khabir Sekh @ Sk
Vs.
The Aadhar Housing Finance Ltd. & ors.

Adv. Salahuddin,
Adv. Md. Raziuddin,

... for the petitioner.

Adv. Vimal Kumar Shahi,
Adv. Sutanu Chakraborty,
Adv. Bhakti Prasad Das,
Adv. Pratiti Das,

...for the State.

The affidavit of service filed on behalf of the petitioner is taken on record.

The present writ petition has been preferred primarily challenging an order passed by the learned Chief Judicial Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, SARFAESI Act).

The petitioner submits that, as the learned Debts Recovery Tribunal is not functioning due to the summer vacation, this Court should intervene in the matter and pass an appropriate order.

Heard the learned advocates for the respective parties.

Admittedly, the petitioner is the borrower and defaulted in making payment of the installments as per the restructured payment schedule. Proceedings under the SARFAESI Act were initiated in 2024. The order dated 7th November, 2024 records that a notice under Section 13(2) of the said Act was issued on 9th January, 2024 and, thereafter, following the procedure prescribed under sub-section (4) of Section 13, the concerned

bank took steps to take possession of the secured assets by invoking the provisions of Section 14 of the Act.

An alternative remedy is available. Despite having knowledge that proceedings under the SARFAESI Act were initiated as far back as 2024, the petitioner has not approached the learned Debts Recovery Tribunal, nor has any application been filed.

There is a catena of judgments wherein the Hon'ble Supreme Court has held that the High Court should refrain from entertaining writ petitions involving recovery of bank dues in the presence of a statutory alternative remedy. A useful reference may be made to the decision, reported at (2010) 8 SCC 110 (Union Bank of India & Ors. vs. Satyabati Tandon & Ors.)

Taking note of the fact that an efficacious alternative remedy is provided by the statute itself, and having considered the facts and circumstances of this case, and applying the principles laid down in the aforementioned decision, and adhering to the well-established principle of self-imposed restraint by this Court to not overstep its defined jurisdiction, especially where the statute provides an efficacious alternative remedy, I am not inclined to interfere with this writ petition.

Consequently, the writ petition is, thus, dismissed. There shall be no order as to costs.

However, this order shall not preclude the petitioner from preferring the appropriate application before the competent forum in accordance with law.

(Partha Sarathi Chatterjee, J.)