

30.09.2026
Ct. No.446
Sl. No.1
akd

W. P. A. 28086 of 2026

***[Ujjal Ghosh -Vs- M/s. Mahindra and Mahindra Finance Services Limited
& Ors.]***

Mr. Partha Sarathi Das
... ... for the petitioner

Mr. Radhay Shyam Tiwari
Mr. Anmol Shah
... ... for respondent nos. 1 & 2

Ms. Amrita Pandey
Mr. Ghanshyam Pandey
... ... for the State

1. Affidavit-of-service filed in court today is taken on record.
2. Invoking the extra-ordinary jurisdiction of this Court through this writ petition presented under Article 226 of the Constitution of India, the petitioner prays for a direction upon the secured creditor not to proceed with the notice under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, “the SARFAESI Act”), and not to take possession of the secured asset by giving effect to the order passed under Section 14 of the SARFAESI Act.
3. Mr. Das, learned Advocate appearing for the petitioner, submits that, on an allegation that the borrower had defaulted in repayment of the loan, the secured creditor initially issued a notice under Section 13(2) of the SARFAESI Act, and subsequently, a notice under Section 13(4) of the said Act was served upon the borrower. The borrower challenged the said notice under Section 13(4) of the SARFAESI Act by preferring an application under Section 17 of the said Act before the Debts Recovery Tribunal (in short, “DRT”). However, during the

pendency of the said application, the secured creditor invoked Section 14 of the SARFAESI Act and obtained an order from the District Magistrate, North 24-Parganas at Barasat.

4. Mr. Das further submits that the said order passed under Section 14 of the SARFAESI Act was also challenged before the learned Tribunal in the same proceeding. The learned Tribunal heard the matter and reserved the judgment. He also submits that, presently, only one Bench is functioning in the Tribunal and, taking advantage of this, the secured creditor is seeking to take possession of the secured asset. He submits that, in such conspectus of the facts and circumstances of the case, immediate intervention of this Court is warranted. According to him, unless an interim order is passed restraining the secured creditor from taking possession of the secured asset, the petitioner will be highly prejudiced.

5. Mr. Tiwari, learned Advocate appearing for the respondent nos. 1 and 2, submits that, in connection with the original application filed by the borrower, an interlocutory application has been filed and the hearing of the said interlocutory application has been concluded. However, the judgment has been reserved. He further submits that, until the judgment on the said interlocutory application is passed, respondent no. 2 will not take possession of the secured asset.

6. As this undertaking has been made before this Court on behalf of respondent no. 2 and the same is also placed on record, I am of the view that no further order needs to be passed in the present writ petition.

7. The petitioner is at liberty to file an appropriate application before the learned Tribunal.

8. With these observations and directions, WPA 28086 of 2026 is disposed of.
9. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall be deemed to have not been admitted by the respondents.
10. There shall be no order as to costs.
11. Let urgent Photostat certified copy of this order be made available to the parties, if applied for, upon compliance of usual formalities.

(Partha Sarathi Chatterjee, J.)