

15.10.2026
Ct. No.446
Sl. No.6
akd

W. P. A. 30158 of 2026

[Supada Mandal-Vs- The Authorised Officer, Indian Overseas Bank & Ors.]

Mr. Sohanlal Adak

... .. for the petitioner

Mr. Indrajit Mondal

... .. for respondent nos.1 & 2
[Indian Overseas Bank]

1. Affidavit-of-service filed in court today is taken on record.
2. The present writ petition has been preferred seeking a direction upon the concerned respondent to return the secured asset to the petitioner upon cancellation of the auction sale held by the secured creditor for enforcement of its security interest.
3. Mr. Adak, learned Advocate appearing for the petitioner, submits that the petitioner had availed of a credit facility of Rs. 2,50,000/- from the respondent, Indian Overseas Bank (hereinafter referred to as “the secured creditor”). However, owing to circumstances beyond the control of the petitioner, he defaulted in repayment of the loan in accordance with the repayment schedule. Consequently, the loan account was classified as a Non-Performing Asset (in short, “NPA”). Subsequently, for enforcement of its security interest, the secured creditor issued a notice under Section 13(2), followed by a 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”). The secured creditor thereafter took possession of the property in question pursuant to an order passed under Section 14 of the SARFAESI Act.

4. Mr. Adak further submits that the auction was subsequently held and the property was sold to the auction purchaser. He claims that the property is a valuable one, located in the vicinity of Barasat Railway Station, and that its approximate value would be more than Rs. 65,00,000/-. However, the property has been sold for a sum of Rs. 10,00,000/- and odd. According to him, since the property has been sold at a lower price, this constitutes sufficient ground for this Court to interfere in the present writ petition.

5. Mr. Mondal, learned Advocate appearing for the respondent nos. 1 and 2, Indian Overseas Bank, submits that the present writ petition is not maintainable, as the same has been filed without exhausting the statutory alternative remedy. He further submits that the petitioner could have approached the Tribunal and raised all these issues.

6. Heard the learned Advocates appearing for both the parties and perused the materials on record.

7. Undisputedly, the petitioner availed of a credit facility by creating an equitable mortgage over the property, the particulars of which are detailed in paragraph 3 of the writ petition. Upon the petitioner failing to adhere to the repayment schedule, the loan account was classified as an NPA. Subsequently, the secured creditor initiated measures under the SARFAESI Act. Ultimately, the secured asset was sold to the auction purchaser through an auction process.

8. Now, the petitioner has preferred the present writ petition alleging that the property has been sold at a lower price. Sale is a measure enumerated under sub-section (4) of Section 13 of the SARFAESI Act. Therefore, the petitioner could have raised all

these issues by preferring an appropriate application before the learned Tribunal.

9. Furthermore, the present writ petition has been preferred by the petitioner without exhausting the available statutory alternative remedy.

10. Undisputedly, in a catena of decisions, the Hon'ble Supreme Court has deprecated the practice of entertaining writ petitions primarily filed to interdict recovery proceedings initiated by the secured creditor to enforce the security interest. A useful reference may be made to the decision of the Hon'ble Apex Court in PHR Invent Educational Society v. UCO Bank & Ors., reported in (2024) 6 SCC 579.

11. In view thereof, I am not inclined to entertain the present writ petition and accordingly, the same stands dismissed.

12. However, this order shall not preclude the petitioner from approaching the appropriate forum, in accordance with law for redressal of his grievances.

13. With these observations and directions, WPA 30158 of 2026 is dismissed.

14. 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.

15. There shall be no order as to costs.

16. 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.)