08.09.2026
Item No.17 (DL)
Court No.7
AJ.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

W.P.A. 24825 of 2026

M/s. L.K. Charitable and Welfare Trust & Anr.
-Vs-
State Bank of India & Ors.

Mr. Shashwat Nayak,
Mr. Debjit Mukherjee,
Mr. Vishal Kumar.
.... for the petitioners.

Mr. Ajay Gaggar,
Mr. Uttiyo Mallick,
Ms. S. Gupta.
....for the respondent no.1.

Ms. Reshmi Ghosh,
Mr. Ghanshyam Pandey.
...for the State.

1. Affidavit of service filed in Court today is taken on record.

2. This writ petition assails the action of the bank in seeking to take possession of the secured asset of the bank on the strength of an order dated January 08, 2026 passed by the learned Chief Judicial Magistrate, Purba Bardhaman in Misc. Case No. 888 of 2025 initiated under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002.

3. The petitioners have availed of certain credit facilities from the respondent bank which are allegedly in default. The credit facilities were secured by mortgage of certain immovable property. The bank seeks to enforce the

mortgage by resorting to the relevant provisions of the 2002 Act.

4. Upon the bank taking action under the 2002 Act, the petitioners approached the Debts Recovery Tribunal by filing an application under Section 17 of the 2002 Act which has been registered as S.A. 458 of 2025.

5. The bank on the other hand approached the learned Chief Judicial Magistrate, Purba Bardhaman under Section 14 of the 2002 Act which was registered as Misc. Case No. 888 of 2025. In the said misc. case an order dated January 08, 2026 was passed thereby providing police assistance to the bank in order to facilitate taking physical possession of the secured asset.

6. Accordingly, the bank issued a notice for taking physical possession of the secured asset through the learned Advocate Commissioner appointed by the learned Chief Judicial Magistrate.

7. Assailing the same the petitioners moved the Debts Recovery Tribunal-II, Kolkata by filing an interlocutory application in a pending SARFAESI application.

8. In the said interlocutory application, an order was passed on April 07, 2026 fixing the matter for hearing on July 13, 2026 and in the meantime, the bank was directed to give at least

three weeks' prior notice before acting upon the order dated January 08, 2026. The petitioners have now approached this Court alleging that the bank has issued a notice dated August 29, 2026 stating that the bank would take possession on September 08, 2026 (i.e. today) defying the order of the Debts Recovery Tribunal passed on April 07, 2026.

9. Learned Advocate appearing for the petitioners submits that the bank has acted illegally in seeking to take physical possession of the secured asset *de hors* the order passed by the Debts Recovery Tribunal on April 07, 2026.

10. It is submitted that although, the order mandated three weeks prior notice to be served upon the petitioners, the bank seeks to take possession by serving a notice of less than even 10 days.

11. Learned Advocate appearing for the bank submits that the petitioners have suppressed an earlier notice dated May 18, 2026 issued to the petitioners. The bank has produced before the Court the postal receipts which shows dispatch of the said notice through Speed Post. A copy of "*Article Delivery Manifest of Bhedia SO dated 19-05-2026*" has also been handed up to Court which reveals that the postal articles addressed to the petitioner no.1

has been received by one Rousana Bibi. It is submitted that the said Rousana Bibi is the wife of the petitioner no.2.

12. It is therefore submitted that the order passed by the Debts Recovery Tribunal has in any event been complied with.

13. The petitioners dispute receipt of the said notice. However, at this moment there is nothing before this Court to disbelieve the bank.

14. There is one more reason why this Court does not feel inclined to pass any protective direction in the interim while the petitioners' application remains pending before the Tribunal.

15. The order dated April 07, 2026 has to be read meaningfully. While by the said order the matter was fixed on July 13, 2026, by the follow up mandate the defendant bank was directed to give at least three weeks prior notice "*in the meantime*". Interpreting the same reasonably, the conclusion would be that the Bank was ordered to give three weeks' notice only if it wished to take possession at anytime prior to the next date fixed. The date on which the matter was supposed to be listed before the Debt Recovery Tribunal has long passed. That being so, the bank's action cannot be faulted.

16. Looking at it either way, there is nothing that can persuade this Court to pass an

order restraining the bank from acting on the basis of the order passed by the learned Chief Judicial Magistrate, Purba Bardhaman as at present.

17. The petitioners submit that the petitioners have also filed an application for preponment of the date of hearing before the Debts Recovery Tribunal as well as an interlocutory application challenging the notice issued on August 29, 2026.

18. Since the petitioners have already approached the Debts Recovery Tribunal, the Debts Recovery Tribunal-II, Kolkata is directed to fix a date for hearing of the petitioners' application laying challenge to Section 14 order being IA 6613 of 2026 and I.A. 10448 of 2026 challenging the notice dated August 29, 2026 by fixing a short date upon disposing of the "put up" application being IA 10447 of 2026, which has been filed for preponment of the date.

19. It is expected that the learned Tribunal would hear out the petitioners' interlocutory applications as expeditiously as possible and preferably within a fortnight from date. The parties shall conclude the pleadings as regards the Section 14 application in the meantime, if not already done.

20. With the aforesaid observations, WPA 24825 of 2026 stands disposed of.

21. It is made clear that this Court has not gone into the merits of the petitioners' case as regards Section 14 application and all points are left upon to be urged upon the Debts Recovery Tribunal.

22. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)