

Calcutta High Court (Appellete Side)

Oriental Bank Of Commerce vs State Of West Bengal & Ors on 18 November, 2019

1

18.11.2019.

rc
tem No.14

W.P. No. 8307(W) of 2014
Oriental Bank of Commerce
Vs.
State of West Bengal & Ors.

Mr. Motibur Rahaman
Md. Nasiruddin
Mr. Abid Jamal ... For the Petitioner

Mr. Swapan Dutta
Mr. Dipankar Das Guptafor the State

Mr. S. E. Huda
Mr. S. Gupta ...for the Respondent No. 9

1. This writ petition has been filed by the Oriental Bank of Commerce being the petitioner No.1 complaining of inaction on the part of the police authorities, in complying with an order dated 1 March, 2013 passed by the District Magistrate, South 24 Parganas, directing the police to provide assistance in taking physical possession of a secured property being a flat situated on the first floor of Ashabari Apartment a multi-storied building situated at premises No.P/411/23A Hindustan Park CIT Scheme No.XIVII. A full description of the property would morefully appear from the order of the District Magistrate as well as the representations made by the petitioner bank to the police authorities details whereof have been set out at Annexure P-6 to the writ petition.

2. It is submitted by the Advocate appearing on behalf of the petitioner that notwithstanding a clear and categorical direction on the police authorities to provide police assistance for taking possession of the secured property in view of the default committed by the private respondent Nos.6, 7 and 8 no steps whatsoever have been taken by the police authorities. The order of the District Magistrate had been passed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act) 2002.

3. The petitioner bank had written several representations to different police authorities but there is complete inaction on the part of the police authorities.

4. Mr. Swapan Dutta, Additional Government Pleader appeared on behalf of the State and submits that due to pendency of the revisional application and a writ petition filed by the auction purchaser

being the respondent no.9 the police have not taken any steps in the matter. He is unable to show any order of any Court restraining the police from providing police assistance in terms of the order passed by the District Magistrate.

5. Having heard the parties and perused the writ petition, I am of the view that there is no iota of doubt in my mind that the police have deliberately failed to take any steps in complying with the order dated 1 March, 2013 passed by the Learned District Magistrate. There is no plausible excuse and or justification to explain the non-co-operation and/or intentional failure on the part of the police authorities. Such action on the part of the police authorities is not only unwarranted but borders on being perverse and malafide.

6. WP 8307 (W) of 2014 is allowed.

7. The police authorities and more particularly the Officer-in-Charge, Gariahat Police Station is to act in terms of the order dated March 1, 2013 passed by the District Magistrate, South 24 Parganas as expeditiously as possible and provide full police assistance for taking physical possession of the secured property in terms of the order dated 1 March, 2013 passed by the Learned District Magistrate as expeditiously as possible and preferably within a week's time.

8. It is unfortunate that the order of the District Magistrate was passed as far back as in 2013 and the police authorities have intentionally failed to comply with the said order.

9. Let a copy of this order be served upon the Commissioner of Police, Kolkata and on the Officer-in-Charge, Gariahat Police Station to ensure compliance with the order passed by the Learned District Magistrate dated March 1, 2013. Writ petition being WP 8307 (W) of 2014 is disposed off.

10. However, there will be no order as to costs.

11. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Ravi Krishan Kapur, J.)