IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

MAT/1465/2025
VIJAY PRAKASH BOHRA
VS
STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2025

For the Appellant	:	Mr. Rishad Medosa, Advocate Mr. Deepan Kumar Sarkar, Advocate Ms. Deepti Priya, Advocate Mr. Ramendu Agarwal, Advocate
For the SBI	:	Mr. Debahis Saha, Advocate
For the respondent No. 5-7	:	Ms. Rashmi Bothra, Advocate
For the respondent No. 6 & 9	:	Mr. Kanishk Kejriwal, Advocate Ms. Arushi Rathore, Advocate Mr. Pritam Roy, Advocate

Heard & Judgment on: September 9, 2025

Debangsu Basak, J.

1. Appeal is directed against an order dated August 18, 2025 passed in WPA 11575 of 2025.
2. Appeal is at the behest of private respondent in the writ petition.
3. Learned advocate appearing for the appellant submits that the appellant purchased an immovable property in a proceeding under

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the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. He submits that actual physical possession of such immovable property was not made over to the appellant by the Bank.

4. Learned advocate for the appellant submits that the Bank filed an application under Section 14 of the Act of 2002 on February 18, 2016. Such application was dismissed by the jurisdictional District Magistrate by an order dated March 27, 2025.
5. Learned advocate appearing for the appellant submits that, Bank filed a writ petition being WPA 11575 of 2025 praying for setting aside of the order dated March 27, 2025 and seeking a direction upon the jurisdictional District Magistrate to issue an order under Section 14 of the Act of 2002. Learned Single Judge erred in not issuing such direction on the jurisdictional District Magistrate.
6. Learned advocate appearing for the appellant relies upon **(2018) 15 SCC 99 [ITC Limited vs. Blue Coast Hotels Limited & Ors.]** and submits that, a secured creditor can apply under Section 14 of the Act of 2002 to take actual physical possession of the secured asset subsequent to the sale of the same to a purchaser. Therefore, both the jurisdictional District Magistrate as well as the learned Single Judge erred in not directing remedies under Section 14 of the Act of 2002.
7. Learned advocate appearing for the private respondents submits that, there is an order of injunction passed by commercial Court with regard to the concerned immovable property restraining the private respondents from creating third party rights in respect of such immovable property.
8. Learned advocate appearing for the private respondents submits that, more than the order of injunction, there is an issue with

regard to the maintainability of the appeal. He submits that, appellant is a purchaser of an immovable property and cannot move Court for the purpose of obtaining an order under Section 14 of the Act of 2002. He assails the locus of the appellant before us to file and move the appeal. He submits that, the ratio laid down in **ITC Limited (supra)** assists the private respondents in this regard.

9. State Bank of India (SBI) invoked the provisions of Section 14 the Act of 2002 in respect of security interest covering the credit facilities extended by it to the borrowers and guarantors including the respondent Nos. 4 and 9 herein. The immovable property concerned was a security interest of SBI in respect of such credit facilities.

10. SBI put up the secured asset for sale under the provisions of Section 14 of the Act of 2002. Appellant before us purchased such immovable property for valuable consideration. Appellant is yet to receive actual physical possession of the immovable property since, SBI is yet to obtain actual physical possession of such immovable property concerned.

11. Apparently, SBI sold the immovable property without obtaining actual physical possession thereof. Prior to the sale of the immovable property to the appellant, SBI applied before the jurisdictional District Magistrate for assistance under Section 14 of the Act of 2002. Such application was made on February 18, 2016 to the jurisdictional District Magistrate. Such application was rejected by the jurisdictional District Magistrate on March 27, 2015. SBI moved the High Court by way of a writ petition being WPA 11575 of 2025 challenging the decision dated March 27, 2025 which resulted in the impugned order.

12. **ITC Limited (supra)** is of the view that, a secured creditor can invoke the provisions of Section 14 of the Act of 2002 subsequent to sale of the immovable property to a third party. It is of the opinion that, the transfer of the immovable property without the actual physical possession thereof being made over to the purchaser was a limited transfer and, therefore, a secured creditor, in this case SBI, is entitled to the benefits of Section 14 of the Act of 2002.
13. SBI, as noted above, applied before the jurisdictional District Magistrate under Section 14 of the Act of 2002 on February 18, 2016 prior to the sale. Jurisdictional District Magistrate rejected such application on March 27, 2025. Sale certificate was issued on March 28, 2025.
14. So far as the appellant is concerned, right, title and interests of the appellant stand affected by the impugned order.
15. By the impugned order, learned Single Judge refused to direct the jurisdictional District Magistrate to render assistance under Section 14 of the Act of 2002 to the SBI to take actual physical possession.
16. Therefore, in our view, appeal, at the behest of the purchaser, in this case the appellant, is maintainable in respect of an order refusing to grant relief under Section 14 of the Act of 2002 to the secured creditor. Such refusal, as noted above, affects the right, title and interests of the purchaser in respect of immovable property concerned.
17. The contention that, there is an order passed by the commercial Court in respect of immovable property concerned, is of no consequence. It does not affect the right of the secured creditor to proceed under the Act of 2002. SBI as the secured creditor invoked the provisions of the Act of 2002. Commercial Court did not

restrain SBI from invoking the provisions of the Act of 2002. SBI is not a party to the suit in which such order was passed. In any event, it is not a voluntary transfer by the private respondent nos. 4 and 9 in respect of immovable property concerned. Therefore, the apprehension that the private respondent Nos. 4 and 9 will be acting in breach of an order of the commercial Court is also misplaced.

18. District Magistrate exercising powers under Section 14 of the Act of 2002 is not an adjudicatory authority. Private respondents are not remediless in respect of a measure taken under Section 13(4) of the Act of 2002. We are informed that there is a proceeding under Section 17 of the Act of 2002 pending.

19. In the facts of the present case, in view of the ratio laid down in **ITC Limited (supra),** the decision dated March 27, 2025 of the jurisdictional District Magistrate is set aside. He will dispose of the application dated February 18, 2016 within a fortnight from date and will ensure that actual physical possession is made over to the secured creditor through its authorized representative within four weeks from date.

20. MAT/1465/2025 along with the connected applications are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

21. I agree

(Md. Shabbar Rashidi, J.)

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