

Court No. - 3

Case :- WRIT - C No. - 31747 of 2023

Petitioner :- Vikas Tomar

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Rohit Nandan Pandey

Counsel for Respondent :- C.S.C.,Chandra Bhan Gupta

Hon'ble Siddhartha Varma,J.

Hon'ble Shekhar B. Saraf,J.

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State and Sri Chandra Bhan Gupta, learned counsel for respondent Bank.

2. Present writ petition has been filed with the following prayers:

"i. To issue a writ, or direction in the nature of certiorari for quashing the order of recovery dated 24.7.2023 (Annexure-5) passed by Addl. District Co-Operative Officer, Co-operative Societies, Ghaziabad.

ii. Mandamus directing the res. Addl. District Co-Operative Officer, Co-operative Societies, Ghaziabad to refund remaining amount Rs.7,75,916/- Out of the property sold of the petitioner in auction in the year 2017.

iii. Mandamus directing the res. Addl. District Do-Operative Officer, Co-operative Societies, Ghaziabad to decide representation of the Petitioner."

3. Learned counsel for the petitioner states that the possession of the mortgaged property was handed over by the petitioner to the NOIDA Commercial Co-Operative Bank way back on 13.5.2015.

4. Learned counsel for the Bank, however, states that no possession has been handed over by the petitioner and nor is the possession of the property with the Bank.

5. Under such circumstances, the prayer with regard to refund of the money that is prayer no.(ii) cannot be granted to the petitioner. If the petitioner is aggrieved of the recovery, he may take recourse to such action that might be available under the Co-operative Societies Act.

6. With these observations, the writ petition stands disposed of.

Order Date :- 11.12.2023

Kuldeep

(Shekhar B. Saraf,J.)

(Siddhartha Varma, J.)