

Court No. - 3

Case :- WRIT - C No. - 7474 of 2023

Petitioner :- Ram Kumar @ Ram Kumar Sachan

Respondent :- State Of U.P. Thru. District Magistrate Lko. And Others

Counsel for Petitioner :- Shailesh Sachan, Gaurav Singh, Piyush Agnihotri

Counsel for Respondent :- C.S.C., Abhay Kumar, Vinay Shankar

Hon'ble Vivek Chaudhary, J.

Hon'ble Manish Kumar, J.

1. Heard learned counsel for petitioner, learned Standing Counsel for State and Sri Abhay Kumar, learned counsel for the Bank.

2. Petitioner has approached this Court claiming that he had purchased a property in bank auction held in the year 2011 and thereafter deposited the entire sale consideration of Rs.8,09,100/- with the respondent Bank, however, respondent-Bank has not been able to take possession of the said property as per Section 14 of the SARFAESI Act despite nearly 12 long years having passed. Therefore, petitioner prays that his entire amount deposited with the respondent-Bank may be directed to be returned along with 9% interest and further exemplary cost may be imposed upon the respondent-Bank.

3. Sri Abhay Kumar, learned counsel for the respondent-Bank, strongly opposes the petition and states that delay is on the part of petitioner as respondent-Bank had offered the petitioner to accept his amount in the year 2013. He further submits that the property is sold out on 'as is where is' basis and petitioner is not entitled for any interest. He also submits that it is the district administration which is responsible for delaying the proceedings.

4. Be that as it may, it is not in dispute that the petitioner had purchased the property in the year 2011 and had paid the entire sale consideration at that time only i.e. in December, 2011. Despite the same, respondent-Bank has failed to take appropriate expeditious steps to get the property vacated and handed over possession to the petitioner as per Section 14 of the SARFAESI Act.

5. Looking into the facts and circumstances of the case, respondent-Bank shall returned the aforesaid amount of Rs.8,09,100/- to the petitioner along with interest @ 4.5% only. The amount shall be returned by the respondent-Bank to the petitioner within a period of six weeks from today. The petitioner shall execute appropriate documents with regard to surrender of all his rights in favour of respondent-Bank in furtherance of the said auction.

6. The writ petition stands ***allowed***.

[Manish Kumar,J.] [Vivek Chaudhary,J.]

Order Date :- 6.11.2023

Sachin