IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5881 of 2013

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M/S Farm Solutions Trading Pvt. Ltd. Regd. Office & Factory At Maniyarpur, Distt. Vaishali, Bihar Through Rajesh Singh, Managing Director, S/O Late Ram Kumar Singh R/O 217, Surya Triveni, New Patliputra Colony, P.S. Patliputra, District- Patna- 13.

.... Petitioner/s

Versus

1. State Bank Of India, Through Dy. General Manager, Stressed Assets, Management Branch (Samb), Judges Court Road, Patna.

------ Respondent

2. Sawalia Singh, aged about 71 years, son of late Durga Singh, Resident of Rajput Colony, Road No.3, House No. 113, Hajipur, P.S. Industrial Area, Hajipur, Dist. Vaishali.

.... Intervenor/Respondent

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Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Jha, Adv.
For the Bank	:	Mr. Prabhat Kr. Sharan, Adv.
		Mr. Hemant Sharan, Adv.
		Mr. Aditya Sharan, Adv.
For the Intervenor	:	Mr. Dr. Binay Kr. Singh, Adv.
		Mr. Alok Ranjan, Adv.
		Mr. Amit Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-02-2017

I.A. No. 245 of 2014

The present interlocutory application has been filed for adding the intervenor as party respondent in this case.

For the reasons mentioned in this interlocutory application, the prayer made therein is allowed and the intervenor is added as respondent no.2 to this writ application.

Accordingly, the I.A. No. 245 of 2014 stands allowed.

CWJC No. 5881 of 2013

Heard learned counsel for the petitioner and learned counsel for the respondent as also counsel for the intervenor respondent.

In the present case, a prayer has been made to comply the order dated 30.8.2012 passed by the Debt Recovery Tribunal, Patna in MA No. 337 of 2013, whereby and whereunder, a direction has been given to return all security documents mentioned in schedule of miscellaneous application which was deposited at the time of taking loan forthwith. In fact, a prayer has been made to return all the documents which were deposited in bank by way of equitable mortgage for the purpose of granting loan to the petitioner.

The brief fact of this case is that the petitioner is a Company, has been incorporated under the Companies Act, 1956, engaged in the business of agriculture and food products i.e. buying the newly grown crop like baby corn and straw berries from the local farmers and thereafter packing them fresh and selling it in bigger town and for establishing the factory. For the aforesaid purpose, the petitioner applied for the loan in the year 2004 and the same was sanctioned in August, 2005 with a term loan of Rs. 20,69 lacs and cash credit of Rs. 15 lacs, for the aforesaid purpose, the petitioner has created an equitable mortgage of their immovable properties by deposit of deeds. As the company was working smoothly, the cash credit limit was enhanced to 68.69 lacs. The company also received a subsidy of Rs. 5.56 lacs from the National Horticulture Board which was deposited and parked in the bank as the reserve and surplus amount. Over the period of time, the company has paid interest up to 22.95 lacs approximately and has also repaid Rs. 9.1 lacs from the principal amount as per the bank statement and this excludes Rs. 5.56 lacs which was received by the company as subsidy and which has been deposited in the bank by National Horticultural Board. On account of worldwide recession, the company lost a lot of capital due to bad debts from some of his foreign clients and also from cancellation of supply orders. Due to cancellation of supply order of the products which were perishable in nature, the company had sustained lots of capital loss. On that count, the company account of the petitioner became irregular for not depositing some of the installment in favour of the bank. Thereafter, the bank restructured the account of the applicant and allowed the transaction through the account and permitted to withdraw 50% of the deposit amount each time and in view of restructuring of the account, the petitioner company could not avail the SBI OTS Scheme of 2009. When the restructuring of the account was not allowed and no such facility was extended by the bank, the petitioner wrote a letter dated 31.3.2010 to know the status of the account and offer for settlement on deposit a sum of 5% of the settlement amount. In reply of the letter, the bank showed desire to settle the account and the details of sanctioned unpaid amount was shown Rs. 55.32 lacs and the petitioner requested for repayment till March, 2011 but the bank failed to process the application till 30.6.2010 and prefer to issue notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short "SARFAESI Act") dated 4.6.2010 for discharge of in full a sum of Rs. 65,14,180.68/- together with further interest w.e.f. 1.12.2008. In reply to the notice, the petitioner again offered to deposit 5% of the balance amount of Rs. 65.14 lacs. The Chief Manager disposed of the application treating it as objection under Section 13(3A) of the SARFAESI Act and rejected the same, in turn the bank issued possession notice dated 21.8.2010, thereby fixed the schedule dated of auction on 9.1.2011. On the day of auction, the intervenor respondent as well as the present petitioner were present, auction was held and the intervenor respondent was declared as the highest and successful bidder.

In pursuance thereof, he purchased two plots each measuring 2283.3 sqft. Located at Mauza- Dhanauti, Habibullah, Hajipur, Vaishali. In terms of the standard procedure, all the persons who have participated in the auction put their signature on the attendance sheet. On payment of the entire bid amount of Rs.27,16,000/-, the bank issue the sale certificate dated 25.02.2011.

The present petitioner filed a writ application being CWJC No. 2608 of 2011 which was disposed of by an order dated 25.03.2011 whereby the petitioner was permitted to withdraw the writ petition and directed to prefer an appeal under Section 17 of the SARFAESI Act before the Debt Recovery Tribunal, Patna within fifteen days.

In pursuance thereof, the petitioner filed appeal under Section 17 of the SARFAESI Act bearing No. 56 of 2011 for convenience S.A. No. 56 of 2011. It is an admitted fact that the property in auction was never put in possession to the Intervenor respondent, the appeal filed by the petitioner was disposed of on 7.2.2012. The Debt Recovery Tribunal considered the claim of the petitioner as well as show-cause and objection of the State Bank of India, there it has been recorded that Rajesh Singh, Director of Company was present at the time of auction and he did not oppose to the sale but on the other hand signed the standard attendance sheet of auction without raising any objection to the procedure of the auction. The Bank has also contested the condoning of delay as the ground mentioned therein is not sufficient for the same. The Bank raised further objection that the petitioner in the reply notice has not raised any objection, proposal for settlement was also denied and under the OTS scheme at least 25% amount was remained to be deposited initially for showing intention to compromise, but no such amount was even deposited and prayer was made by respondents that the appeal filed by the petitioner is fit to be dismissed.

Before the Appellate Tribunal, the Intervenor respondent who was arrayed as respondent no.2 also raised objection with respect to maintainability of appeal on fact as well as law, raised objection that the appeal was hopelessly time barred. The Intervenor respondent has taken a plea that he was the highest bidder in the auction, the property, in question, was sold in his favour, accordingly, this certificate dated 25.2.2.011 was issued in his favour. After having received sale certificate dated 25.2.2011, he got the land mutated in his name and is continuing in peaceful possession of the property, in question. A further plea was taken that the auction sale now cannot be upset and reopened except on grounds of fraud, gross illegality and gross inadequacy of price of the sale of the assets. The Bank after considering the claim of the petitioner as well as objection of the Bank including the Intervenor respondent, the Debt Recovery Tribunal passed order in the terms that giving liberty to the borrower to save his property as he has long attachment with the same and if he wants to retain the same, the applicant shall deposit the entire dues of the bank along with 9% simple interest and 5% penalty on the auctioned amount deposited with the bank by the purchaser. The petitioner shall also deposit the entire SARFAESI expenses incurred by the Bank on production of receipt by the Bank. The Bank is to supply the calculation chart to the applicant within 7 days from the date of receiving of copy of this order and thereafter within one month, the applicant shall deposit the amount as supplied by the Bank. After depositing the entire amount, the bank shall release the property in favour of the applicant. In the order, it has been made clear that if the applicant fails to deposit the amount within the time prescribed, then the Bank shall be free to proceed in accordance with law. It will be relevant to mention that the Bank had also filed an application under the Debt Recovery Tribunal Act which was registered as O.A. No. 8 of 2011 and the same was disposed of vide order dated 10.5.2012 in which the Tribunal has taken note of the order passed under Section 13(2) of the SARFAESI Act where the due amount was calculated as Rs. 65,14,180.68/- with interest. In the order, it has been recorded that the NPA interest was not added and same has been maintained in separate registered as per Bank's norms. It has further been stated that the borrower has deposited all total Rs. 31 lacs. There the present petitioner made a prayer that he should be allowed to deposit the remaining due amount with the minimum interest which was opposed by the Bank and after hearing both the parties, the Court passed order, thereby directed to deposit the amount along with 09% interest. It will be relevant to quote the operative part of the order dated 10.5.2012 (Annexure-1) which reads as follows:-

> *"Hence, I award simple 09% interest from the date of NPA in this case. Accordingly, the bank is directed to supply afresh calculation to the defendants as per order above within 07 days from today. On receipt of the above calculation, the defendants will pay 1st installment within 15 days thereafter and remaining amount will be paid within the 03 months in equal monthly installments from today. It is also made clear that whatever amount has already been paid by defendants after NPA, be deducted from the above amount. If the borrower fails to pay any of the installments, the bank will proceed further for execution of certificate before Recovery Officer.*
>
> *Let the certificate be issued for the claim amount alongwith interest and cost and same shall be kept in abeyance till failing of order as above, the bank is directed to approach before Recovery Officer to work out for execution of Certificate on fail.*
>
> *Copy of order be communicated to the parties."*

In this manner, the earlier order passed by the Debt Recovery Tribunal merged with the subsequent order passed by the Tribunal under the Debt Recovery Tribunal proceeding. As per claim of the petitioner, he has deposited the entire amount in terms of his own calculation in contra as per terms of the Bank vide letter dated 15.2.2012 the amount arrives to Rs. 96,19,640/- whereas as per petitioner, the calculation of amount comes to Rs. 84,44,006.68/- and he has accordingly deposited the entire amount as per his own calculation. After depositing the amount, the petitioner filed a Miscellaneous Application No. 337 of 2012 with a request to give direction to the Bank to return all security/documents mentioned in the schedule of MA application deposited at the time of taking loan. Accordingly, the Tribunal directed to return all documents deposited at the time of execution of equitable mortgage by the petitioner. It will be relevant to mention herein that neither the Bank nor the private Intervenor respondent challenged the order passed by the Tribunal in O.A. No. 08 of 2011, in this manner, the order dated 10.5.2012 reached to finality.

In the meantime, the Intervenor respondent filed a writ application, CWJC No. 12788 of 2012 in which a prayer was made for a direction to the State of Bihar and the S.D.O. to give possession of the property which was auction sold by the Bank on account of failure of repayment of loan dues against the petitioner. The present petitioner appeared, challenged the relief sought for by the intervenor-respondent stating therein that the Intervenor respondent has earlier approached this Court in CWJC No. 14268 of 2011 which was disposed of vide order dated 24.11.2011 taking note of the fact that as the appeal bearing No. 56 of 2011 was filed by the Borrower petitioner before the Debt Recovery Tribunal, Patna, in the said writ application the direction was issued to dispose of the appeal within time indicated in the order and the Tribunal disposed of the same giving direction to pay back the loan amount of Bank. The Bank had also participated in the discussion. The Court also recorded that the objection raised by the Bank was turned down to grant relief of giving direction for handing over the possession of the property in auction. It will be relevant to quote the relevant portion of the order dated 6.12.2012 which reads as follows:-

> *"Upon considering the respective submissions of the parties and their respective pleadings, it would appear that the present writ application is filed for directing respondents no.1 and 2 to give possession over the auctioned property. It would further appear that for the same very relief, the petitioner had approached this Court, as referred to above, which was disposed of by directing the Tribunal to dispose of the appeal filed by the borrower (respondent no.3). The said petition was disposed of. Thereafter the matter was being further proceeded in the Tribunal. now at the instance of the Bank. However, the petitioner against the order of the Tribunal dated 7th of February, 2012 has approached this Court vide CWJC No.4126 of 2012, which was dismissed as withdrawn on the submission of the petitioner vide order dated 19th of*

> *March, 2012.*
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> *In view of the aforesaid facts and circumstances, I am not inclined to entertain this writ application for the relief prayed for. Accordingly, the writ application is dismissed. No costs."*

Against that order, the intervenor respondent filed an appeal being LPA No. 265 of 2013 which was dismissed as withdrawn, there the Bank appeared, made submission that it was going to file a separate writ application for enforcement of the right under Section 14 of the SARFAESI Act but, it has not been brought to the notice of this Court that any such writ application was filed by the Bank for the purpose of granting possession. In respect of that, the Bank has filed another miscellaneous case being M.A. No.412 of 2012 including M.A. No. 531 of 2012 which was dismissed taking cognizance of the fact that the Bank and the intervenor respondent has consecutively failed in getting the favourable order from the High Court recording therein the order of the contempt application in MJC No. 689 of 2012 and also the order passed in CWJC No. 12788 of 2012. It will be relevant to quote entire order dated 22.1.2013 which reads as follows:-

> *"Ld. Counsel of the applicant bank is present. None is present on behalf of defendants.*
>
> *Heard the applicant. In view of the order dated 21.10.2012 passed by Hon'ble High Court in MJC No. 689/2012 that*

"In the said circumstances, this contempt petition is disposed off with liberty to the petitioner to challenge the said appellate order before any appropriate forum or if the said forum has already affirmed the appellate order then before a higher court."

As well as all the thing has been finalized by the Hon'ble High Court in CWJC No. 12788 of 2012. Accordingly, this MA is dismissed.

Put up MA 531/2012 on 20.02.2013."

After the order passed by the Tribunal, the petitioner filed an application dated 23.1.2013 to the D.G.M., State Bank of India wherein he has mentioned that in the miscellaneous application an order has been passed in his favour and in such circumstances, a request was made to return the security document forthwith and also provide "No Dues" certificate but it appears that the order passed in miscellaneous case was challenged before the DRAT, Kolkata in Appeal No. 24 of 2013. As the jurisdiction was transferred to the Allahabad Appellate Tribunal, the matter was transferred there and the case was registered as Appeal (T) No. 102 of 2013. In Appeal No. 102 of 2013, the appellate tribunal set aside the order passed in Misc. Case No. 412 of 2012 and Misc. Case No. 531 of 2012 and remanded back to the Tribunal to pass a fresh order. Again the matter was heard by the Appellate Tribunal and thereby passed a reasoned order dated 29.4.2014 and affirmed the earlier view and refused to modify the earlier order. Accordingly, the M.A. No. 412 of 2012 has been dismissed but with respect of M.A. No. 531 of 2012 wherein it has been recorded that the auction purchaser is no longer interested to acquire the property and made a request for return of the amount. In such a situation, the Tribunal directed to return the amount to the auction purchaser forthwith. It will be relevant to quote paragraph no.8 of the said order which reads as follows:-

> *"8. Another MA 531 of 2012 filed by auction purchaser is also dismissed as because, the auction purchaser present in court in person and he wants to return his purchase money and does not want to contest the case, as he is an old man and he has no money to be paid to his lawyer. Hence, the amount of auction purchaser be returned by the applicant bank with 9% simple interest and 5% simple penalty and compensation of Rs. 1 lac to be paid by borrower. The bank is directed to return the amount of auction purchaser forthwith."*

Against the order passed by the Tribunal, a fresh appeal has been filed as Appeal No. 88 of 2014 and the same is still pending and it has been submitted by the learned counsel for the petitioner and the auction purchaser that the Appellate Tribunal at Allahabad is vacant and there is no presiding officer to decide the appeal pending before the Tribunal. Learned counsel for the petitioner submits that as the order dated 10.5.2012 passed by the DRT in OA No. 08 of 2011 has attained finality, in such circumstances, this Court should issue a mandamus to the Bank to handover those documents which he had filed by way of security for the purpose of loan and, as such, the petitioner is entitled to return of the document.

Learned counsel for the petitioner submits that though the Bank has issued the sale certificate which is not enough for transfer of the right to the purchaser unless the sale deed is executed and registered in favour of the auction purchaser and so long the transfer is not completed by way of registered sale deed, the auction purchaser will not have any lawful right to raise objection for return of the documents and in support of the submission, he has placed reliance on the judgment in the case of ***Mathew Varghese Vs. M. Amritha Kumar & Ors.*** reported in ***(2014) 5 SCC 610***, paragraph no. 36, 37 & 38. Learned counsel for the petitioner has further placed reliance on the judgment in the case of ***Zonal Manager, Central Bank of India Vs. Devi Ispat Limited & Ors.*** reported in ***2010(11) SCC 186*** on the issue of writ of mandamus could be issued in directing to handover the document which was lying with the Bank. He has further submitted that aforesaid judgments cover the field with respect to the present matter.

Learned counsel for the Bank and the Intervenor respondent has submitted that this Court should not exercise the jurisdiction in favour of the present petitioner as at the time of auction, Rajesh Singh, Managing Director of petitoiner company was present which is not in dispute which is apparently clear from the attendance sheet indicating presence of Managing Director of the present petitioner Company in the auction and he never objected or challenged the process of auction sale. He has further submitted that the matter is still pending before the Appellate Tribunal. Unless the dispute of right and title of parties is decided by the Appellate Authority, this Court should not give direction to the Bank to return of the security document submitted by the petitioner at the time of taking loan from the Bank.

Having considered the rival contentions of the parties, it is an admitted fact that the order dated 10.5.2012 in OA No. 08 of 2011 by which a direction was given as mentioned hereinabove to the present petitioner to deposit the amount and in terms of the order, according to his own calculation, the petitioner has deposited the amount in the Bank and the aforesaid order has not been challenged before any authority, forum or court rather the Bank adopted the recourse of filing a modification application which has been dismissed on two occasions and the matter is pending before the Appellate Authority. The issue of right of redemption of the mortgaged property has already been decided in the case of ***Narandas Karsondas Vs. S.A. Kamtam*** reported in ***(1977) 3 SCC 247*** wherein the view has been taken that in India it is only on execution of the conveyance and registration of transfer of the mortgagor's interest by registered instrument will be only manner of mortgagor's right of redemption will get extinguished. The conferment of power to sell without intervention of the Court in a Mortgage Deed by itself will not deprive the mortgagor of his right to redemption. It will be relevant to quote paragraph nos. 36, 37 and 38 of the judgment which reads as follows:-

> "36. Having analyzed the relevant statutory prescriptions under the SARFAESI Act, as well as, the Rules, 2002 it will be necessary to refer to the decisions placed before us on the above aspects, before examining the manner in which the sale of the SECURED ASSET of the 1st and 2nd Respondents was dealt with by the 4th Respondent-Bank and by effecting the sale in favour of the Appellant herein.
>
> 37. Mr. Shyam Divan, learned Senior Counsel relied upon the decision in **Narandas Karsondas** (supra) [(1977) 3 SCC 247], in which the right of a mortgagor as prescribed under Section 60 of the T.P. Act has been spelt out. Under Section 60 of the T.P. Act, at any time after the principal money fell due, there is a right in the mortgagor on payment or tender at a proper time and place of the mortgage money, to require a mortgagee to restore the property to the mortgagor with all rights prescribed as it stood prior to the mortgage. Under the proviso, the only impediment would be that if such a right of a mortgagor stood extinguished by

act of the parties or by the decree of a Court. Certain other conditions are also stipulated in the said provision for the mortgagor to seek for redemption of the mortgaged property. Dealing with the said provision, this Court held as under in paragraphs 34 and 35. Paragraphs 34 and 35 are as under:

"34. The right of redemption which is embodied in Section 60 of the Transfer of Property Act is available to the mortgagor unless it has been extinguished by the act of parties. The combined effect of Section 54 of the Transfer of Property Act and Section 17 of the Indian Registration Act is that a contract for sale in respect of immovable property of the value of more than one hundred rupees without registration cannot extinguish the equity of redemption. *In India it is only on execution of the conveyance and registration of transfer of the mortgagor's interest by registered instrument that the mortgagor's right of redemption will be extinguished. The conferment of power to sell without intervention of the Court in a mortgage deed by itself will not deprive the mortgagor of his right to redemption. The extinction of the right of redemption has to be subsequent to the deed conferring such power. The right of redemption is not extinguished at the expiry of the period. The equity of redemption is not extinguished by* *mere contract for sale.*

35. The mortgagor's right to redeem will survive until there has been completion of sale by the mortgagee by a registered deed. In England a sale of property takes place by agreement but it is not so in our country. The power to sell shall not be exercised unless and until notice in writing requiring payment of the principal money has been served on the mortgagor. Further Section 69(3) of the Transfer of Property Act shows that when a sale has been made in professed exercise of such a power, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorize the sale. Therefore, until the sale is complete by registration the mortgagor does not lose right of redemption."

(Emphasis added)

38. On a reading of the above paragraphs, we are able to discern the Ratio to the effect that a mere conferment of power to sell without intervention of the Court in the mortgage deed by itself will not deprive the mortgagor of his right to redemption, that the extinction of the right of redemption has to be subsequent to the deed conferring such power, that the right of redemption is not extinguished at the expiry of the period, that the equity of redemption is not extinguished by mere contract for sale and that the mortgagor's right to redeem will survive until there has been completion of sale

by the mortgagee by a registered deed. The ratio is also to the effect that the power to sell should not be exercised unless and until notice in writing requiring payment of the principal money has been served on the mortgagor. The above proposition of law of course was laid down by this Court while construing Section 60 of the T.P. Act. But as rightly contended by Mr. Shyam Divan, we fail to note any distinction to be drawn while applying the abovesaid principles, even in respect of the sale of SECURED ASSETS created by way of a secured interest in favour of the SECURED CREDITOR under the provisions of the SARFAESI Act, read along with the relevant Rules. We say so, inasmuch as, we find that even while setting out the principles in respect of the redemption of a mortgage by applying Section 60 of the T.P. Act, this Court has envisaged the situation where such mortgage deed providing for resorting to the sale of the mortgage property without the intervention of the Court. Keeping the said situation in mind, it was held that the right of redemption will not get extinguished merely at the expiry of the period mentioned in the mortgage deed. It was also stated that the equity of redemption is not extinguished by mere contract for sale and the most important and vital principle stated was that the mortgagor's right to redeem will survive until there has been completion of sale by the mortgagee by a registered deed. The completion of sale, it is stated, can be held to be so unless and until notice in writing requiring payment of the principal money

> has been served on the mortgagor. Therefore, it was held that until the sale is complete by registration of sale, the mortgagor does not loose the right of redemption. It was also made clear that it was erroneous to suggest that the mortgagee would be acting as the agent of the mortgagor in selling the property."

As it will not be proper for this Court to decide what right has accrued to the Intervenor respondent purchaser in auction purchase is under consideration before the Appellate Authority but the fact remains that the order dated 10.5.2012 in O.A. No. 08 of 2011 gave direction to the petitioner to obey the mandate of Tribunal recorded therein and, in pursuance thereof, the petitioner acted upon. In such situation, will it be proper to give direction to return the security documents lying with Bank. In the case of Devi Ispat (supra), there also the assertion of retention of security documents came for consideration, a plea was taken that no order of mandamus can be issued for return of the document. The Court has said that even in a contract matter, the writ petition is maintainable and in case of undisputed fact the mandamus can be issued. It will be proper to place reliance on paragraph nos. 28 & 29 which reads as follows:-

> "28 *It is clear that, (a) in the contract if there is a clause for arbitration, normally, writ court should not invoke its jurisdiction; (b) the existence of effective alternative remedy*

provided in the contract itself is a good ground to decline to exercise its extraordinary jurisdiction under Article 226; and (c) if the instrumentality of the State acts contrary to the public good, public interest, unfairly, unjustly, unreasonably discriminatory and violative of Article 14 of the Constitution of India in its contractual or statutory obligation, writ petition would be maintainable. However, a legal right must exist and corresponding legal duty on the part of the State and if any action on the part of the State is wholly unfair or arbitrary, writ courts can exercise their power. In the light of the legal position, writ petition is maintainable even in contractual matters, in the circumstances mentioned in the earlier paragraphs.

29 In the case on hand, it is not in dispute that the appellant- Bank, being a public sector Bank, discharging public functions is "State" under Article 12. In view of the settlement of the dues on the date of filing of the writ petition by arrangement made through another Nationalized Bank, namely, State Bank of India and the statement of accounts furnished by the appellant-Bank subsequent to the same i.e. on 14.05.2009 is 0.00 (nil) outstanding, we hold that the High Court was fully justified in issuing a writ of mandamus for return of its title deeds."

In that view of the matter, in the present case, it is an admitted fact that while taking loan, the petitioner had deposited security documents for the purpose of loan and in terms of the order passed by the Tribunal, the petitioner has already returned the amount to the Bank, in such a situation, it is directed that the Bank should return the security documents of the petitioner with the condition in the event the Bank or the Intervenor purchaser succeeds at the appellate stage, in that circumstances, the present petitioner will be equally liable to return back the security documents whatever he has received from the Bank.

With the aforementioned observation, this application is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2017
Transmission Date	