

HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.4659 of 2017

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

The prayer of M/s.Paigah Builders, the petitioner firm, is to declare the inaction of the Indian Overseas Bank, the second respondent, in handing over the possession of the mortgaged property as well as the documents relating thereto as illegal.

Dr.Sofia Begum, learned counsel for the petitioner firm, would contend that Hafeezuddin Shaik Imam, the deponent to the writ affidavit, is the Managing Partner of the petitioner firm and that despite repayment of the loan amount obtained by the petitioner firm, the documents which were deposited with the second respondent bank in relation thereto are not being returned.

Sri I.Radhakrishna Murthy, learned counsel representing Sri K.Suryanarayana, learned counsel for the second respondent bank, would inform this Court that the subject loan amount has already been cleared but owing to the dispute amongst the partners of the petitioner firm, the bank is not in a position to return any of the documents that are still in its possession. As regards the possession of the mortgaged property, he would submit that the bank is in possession thereof in the capacity of a lessee.

Dr.Sofia Begum, learned counsel, would however contest this claim and assert that the property which is under lease with the bank is different from the mortgaged property.

These disputed questions of fact as to who amongst the partners of the petitioner firm would be entitled to take possession of the documents

and as to whether the mortgaged property was subjected to lease in favour of the bank cannot be decided by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution.

The writ petition is accordingly dismissed leaving it open to the petitioner firm to invoke appropriate civil remedies for redressal of its grievance, if any.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

SANJAY KUMAR, J

T.AMARNATH GOUD, J

Dt: 16.07.2018.
IBL

