

\$~6

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6535/2018**

EROS RESORTS AND HOTELS PVT. LTD. Petitioner

Through: Mr Harish Malhotra, Senior Advocate
with Mr Vinod Kapoor, Advocates
and Mr Virender Kaushal, AR.

versus

PUNJAB NATIONAL BANK AND ANR. Respondents

Through: Mr Vivek Jain and Mr Sunil Dalal,
Advocate for R-1.
Mr H.S.Parihar and Mr K.S. Parihar,
Advocates for RBI/R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

06.07.2018

CM No. 24959/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 6535/2018

3. The petitioner has filed the present petition, *inter alia*, praying as under:-

“(a) Issue a writ/ order/ direction in the nature of mandamus and directing the Respondent 1 to issue authenticity certificate in respect of mutilated/ damaged/ soiled and laminated original documents of the Petitioner.

(b) Issue a writ/order/direction in the nature of mandamus passing orders against the Respondent No. 2, directing it to pass detailed order pursuant to impugned order dated

05.07.2017 in respect of the complaint of the Petitioner.

- (c) Issue a writ/ order /direction in the nature of mandamus directing the Respondent No.1 to pay damages of Rs. 5 crores suffered by the Petitioner due to the Respondent No.1.”

4. It is the petitioner’s case that it had provided the original Conveyance Deed in respect of Plot No. 13-B, Mayur Vihar, District Centre, Delhi (hereafter ‘the said property’) and on the basis of the said document, respondent no.1 (hereafter ‘PNB’) had extended a financial loan to the petitioner. The petitioner has now discharged the said loan by taking the assistance from another Non Banking Finance Company – Aditya Birla Finance Ltd. (hereafter ‘the NBFC’) against the security of the said property. In the circumstances, PNB was required to forward the original title documents of the said property to the NBFC. It has done so. However, the said documents are mutilated. The petitioner alleges that PNB is responsible for mutilation of original title documents of the said property which were deposited by the petitioner to secure PNB

5. Mr Malhotra, learned Senior Counsel appearing for the petitioner further states that the said documents have been laminated without the consent of the petitioner. It is in this context that the petitioner now claims damages to the extent of ₹5 crores and further seeks that a direction be issued to PNB to issue an authenticity certificate in respect of the mutilated/damaged/soiled title documents. The petitioner had also filed a complaint in this regard with respondent no.2, which has been disposed of by an order dated 05.07.2017. The petitioner also impugns the order dated 05.07.2017 and further seeks an order directing respondent no.2 to consider

the petitioner's complaint on merits.

6. The learned counsel appearing for PNB submits that PNB is not responsible for mutilation of the said documents and the petitioner's claim is unmerited. He further submits that the NBFC has cleared the outstanding loan advanced to the petitioner against the title deeds of the said property and the said title deeds have been handed over to the NBFC.

7. It is apparent from the above that there are certain disputed questions of fact. Respondent no.2 has also declined to examine the same, as respondent no.2 claims that it cannot enter into a controversy involving such disputed questions.

8. It appears that the petitioner has a genuine grievance with regard to mutilation/soiling of its documents of title to the said property. However, it would not be apposite for this Court to examine the same in this petition. The question whether PNB has acted negligently and whether the petitioner has suffered any damages on that count can only be determined after the parties have had the opportunity to lead evidence.

9. Insofar as the petitioner's prayer that PNB be directed to issue an authenticity certificate is concerned, it would be open for the petitioner to make such request to PNB. PNB shall consider the same and either issue the authenticity certificate as requested by the petitioner or communicate the reasons for not doing so within a period of fifteen days of the petitioner making such request.

10. It would, of course, be open for the petitioner to file appropriate

proceeding to claim any damages or such other relief that it may be advised.

11. The petition is disposed of with the aforesaid observations.

JULY 06, 2018
RK

VIBHU BAKHRU, J