

Writ Petition (Civil) No. 6406 / 2020

CERTIFICATE

1. "The case is fit for consignment and that no proceedings are pending either in the High Court of Delhi or in the Supreme Court of India, in terms of rules as provided in Ch-5(C) of the High Court Rules & Orders Vol.-V", as no communication has been received in this respect.
2. It is also certified that all the relevant papers including office noting pertaining to payments and return of FRD/Bank Guarantee or other documents have been removed from Part 'B' and have been placed at the end of Part 'A' at pages 1 to 253.
3. During Covid period, En-bloc dates w.e.f 17.03.2020 to 14.02.2022 were given by the Hon'ble Court and for such period no court orders were passed by the Hon'ble Court.

Prepared by:

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A.O.J (Writs)
2022

wpe - 6406/20

CM - 22679 - 80/20

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

+ W.P.(C) 6405/2020, CM APPL. 22674/2020 (for exemption) &
CM APPL. 22675/2020 (for stay)

PUNJAB AND SIND BANK

.....Petitioner

Through: Ms. Seema Gupta, Advocate

versus

BANK OF INDIA & ORS.

....Respondents

Through: Mr. Parthiv J Mehta, Advocate for
Bank of India.

Mr. Suresh Arora, Advocate for R-2

AND

+ W.P.(C) 6406/2020, CM APPL. 22679/2020 (for exemption) &
CM APPL. 22680/2020 (for stay)

PUNJAB AND SIND BANK

.....Petitioner

Through: Ms. Seema Gupta, Advocate

versus

BANK OF INDIA & ORS.

....Respondents

Through: Mr. Parthiv J Mehta, Advocate for
Bank of India.

Mr. Suresh Arora, Advocate for R-2

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **15.09.2020**

HEARD THROUGH VIDEO CONFERENCING.

1. The petitioner/Punjab and Sind Bank is aggrieved by the common judgement and order dated 07.07.2020, passed by the learned DRAT in Appeal No. 158/2017 filed by Smt. Uma Devi and Appeal No. 157/2017 filed by Smt. Sumitra Devi, against a common order passed by the learned DRT-I on 21.01.2017, dismissing their applications for seeking restraint orders against Shri Dharamvir, the respondent No.3 herein, from transferring/selling or
W.P.(C) 6405/2020 & W.P.(C) 6406/2020

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disposing of the first and the second floors of property No. 82/B, measuring 50 sq. yards situated at Bindapur Extension, Uttam Nagar, New Delhi, in view of the Sale Certificate dated 13.06.2012, issued in their favour by the petitioner/Bank herein. The alternative prayer made by the private respondents was that if physical possession of the two floors is not handed over to them, then the petitioner/Bank herein be directed to refund the amounts paid by them towards sale consideration, i.e., Rs.15,01,000/- each, alongwith interest.

2. We have perused the impugned judgement and heard Ms. Seema Gupta, learned counsel for the petitioner/Bank as also Mr. Suresh Arora, learned counsel appearing for Smt. Uma Devi and Smt. Sumitra Devi in both the petitions and have expressed a *prima facie* view that the learned DRAT cannot be faulted for setting aside the impugned order passed by the DRT-I and hold that the petitioner/Bank herein ought to refund the sale considerations paid by Smt. Uma Devi and Smt. Sumitra Devi along with interest at the rate of 12% p.a. from the date of receipt of the monies by the Bank, till the date of payment. In our opinion, the appeals preferred by both the auction purchasers named above, were rightly allowed by the DRAT and the impugned order dated 20.07.2017, passed by the DRT-1, Delhi, dismissing their SAs, was set aside for just and valid reasons. There was no justification to relegate the auction purchasers to seek civil remedies against the petitioner/Bank or others for refund of the money deposited by them as auction purchasers in respect of the two floors of the subject premises.

3. At this stage, we have enquired from Ms. Seema Gupta, learned counsel for the petitioner/Bank, if the parties are willing to settle the matter on the petitioner/Bank refunding the sale consideration received from Smt. Uma Devi and Smt. Sumitra Devi with interest as awarded by the learned DRAT till 9.6.2019 and with scaled down interest for the period between 10.06.2019,

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when the judgement was reserved by the learned DRAT, to 07.07.2020, when the judgment was finally pronounced.

4. The matter was passed over for both sides to obtain instructions. On the second call at 01.55 PM, Mr. Suresh Arora, learned counsel for the respondent No.2 in both petitions, states that his clients are agreeable if the rate of interest for the period between 10.06.2019 to 07.07.2020, is reduced to a reasonable amount. Ms. Gupta, learned counsel for the petitioner/Bank insists that no interest ought to be payable by the petitioner/Bank for the aforesaid period as the Bank cannot be burdened with interest when the impugned judgement was reserved on 10.06.2019 and pronounced after almost one year.

5. To balance the equities, it is deemed appropriate to direct the petitioner/Bank to refund the sale consideration to both of the auction purchasers alongwith interest calculated @ 12% p.a. from the date of receipt of monies by the petitioner/Bank, till 09.06.2019. However, the interest for the period between 10.06.2019 to 07.07.2020, shall be calculated @ 6% p.a. and paid to the respondent No.2 in each petition within a period of three weeks from today. It is made clear that in the event the petitioner/Bank defaults in paying the aforesaid amount to the respondent No.2 in both the petitions within the stipulated timeline, then it shall have to pay upto date interest on the principal amount at the rate as directed in the impugned order.

6. The petitions are disposed of along with the pending applications on the above consent terms.



HIMA KOHLI, J.



SUBRAMONIUM PRASAD, J.