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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**W.P.A. No. 1491 of 2021
(Via Video Conference)**

**Basudeb Ghosh & Anr.
-vs.-
The State Bank of India & Ors.**

Mr. Chayan Gupta,
Ms. Sweta Gandhi
...for the petitioners

Mr. Subhankar Chakraborty,
Mr. Swapnadip Das
...for the respondents

The innocuous grievance of the petitioners is that, when the possession of the petitioners' property was taken by the competent authority in terms of an order passed by the Kolkata Debts Recovery Tribunal, several articles of personal use and other movable articles belonging to the petitioners could not be taken by the petitioners from the said premises.

Learned counsel for the petitioners prays that the petitioners may be permitted to retrieve such articles in the presence of the officers of the bank on any date fixed by Court.

Learned counsel appearing for the respondent-bank hands over a copy of an order, which indicates that the possession was taken with notice to the

petitioners. It is submitted that the petitioners were present when such possession was taken. Learned counsel hands up a copy of a report of the receiver in that context. It is further submitted by the respondent-bank that the matter is fixed for hearing tomorrow before the Kolkata Debts Recovery Tribunal.

Since the petitioners have given a specific list of the articles allegedly lying in the premises-in-dispute, annexed at page 30 (Annexure P-4) of the writ petition, a dispute may arise, if a direction as prayed for is passed by this Court, as to whether all such articles are actually lying in the suit property. Moreover, description of some of the articles are vague in nature, including jewellery, groceries, medicines, books etc., since no specific details of such articles have been given. Hence, a factual dispute may arise if such a direction is passed by this Court, which would not be prudent, particularly since the petitioners can always approach the Debts Recovery Tribunal itself for such relief, when the matter is taken up tomorrow by the Tribunal.

Accordingly, W.P.A. No. 1491 of 2021 is disposed by granting the petitioners liberty to pray for retrieval of the articles of the petitioners, allegedly lying in the premises-in-dispute, when the matter is next taken up by the Tribunal.

It is made clear that the merits of the matter have not been gone into by this Court and the Kolkata Debts Recovery Tribunal will be free to decide on the same in accordance with law.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

The Tribunal as well as the parties shall act on the communication of the learned advocates for the parties and/or server copy of this order, without insisting upon prior production of certified copy.

(Sabyasachi Bhattacharyya, J.)