

21.01.2021
Court No. 19
Item No.22
CP

C.O. 135 of 2021

Paschim Banga Gramin Bank & anr.
vs.
Gautam Das

Mr. Baidurya Ghosal

....for the petitioners.

This revisional application has been filed by the petitioners challenging an order dated December 11, 2020, by which the learned Presiding Officer, Debt Recovery Tribunal-II, Kolkata, allowed the borrower to enter into a settlement with the bank and directed the bank not to confirm the sale.

The learned advocate for the bank submitted that such talk of settlement was going on for a long time but the borrower had not shown any inclination to settle the claim of the bank. It is also submitted that the learned tribunal had recorded this fact in its order. The learned tribunal had also recorded that as public money was involved, expeditious adjudication of the application filed by the borrower praying for cancellation of the sale notices was required. However, the learned tribunal gave one more chance to the borrower to settle the claim in view of the intervening pandemic situation. It is urged by the bank that the learned tribunal although was of the opinion that the bank had justifiable reasons for

confirming the sale yet, the tribunal once again restrained the bank from doing so. This, according to Mr. Ghosal, learned advocate for the petitioners, was contrary to the findings of the bank and also the directions suffer from total non-application of mind and error apparent on the face of record. Mr. Ghoshal also drew the attention of the court to the sale certificate issued on December 11, 2020 at 11 a.m.

I have gone through the order impugned and I find that the learned tribunal was of the reasoned view that taking into consideration the pandemic situation, a last opportunity should be given to the borrower to settle the claim and, hence the learned tribunal restrained the bank from confirming the sale. The tribunal probably thought it fit that third party interest should not be created during the interim period. This view of the tribunal cannot be held to be totally unreasonable or perverse. However, as the learned advocate for the petitioners submits that the talks of settlement have failed on several occasions and there was no point in continuing with the talks is also to be noted. In my view the learned Tribunal should proceed expeditiously.

I find from the order impugned, that the learned tribunal has observed that if settlement is not arrived at, the matter will be heard out and decided on merits. It is also on record that the sale

certificate was issued on December 11, 2020 at 11 am and the order of the learned tribunal was passed in the afternoon. This development should be pointed out to the tribunal at the hearing of the application.

It is informed that the next date is fixed on February 11, 2021. Thus this Court hopes and trusts that the learned tribunal will proceed with the hearing of the application on its own merits and on the basis of records and pass an appropriate order by taking into account the subsequent development. The said application should be disposed of expeditiously, preferably within a period of one month from the next date fixed. The order impugned is not interfered with. The revisional application is disposed of without any interference.

This court has not gone into the merits of the claims of the petitioner and all points are left open for the tribunal to decide.

The disposal of this revisional application shall not influence the learned tribunal while deciding the application pending before it.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)