S/L No.24

26.08.2021
Ct-8
(AD)

(Through Video Conference)

WPA 13249 of 2021

Rafikul Islam & Anr.
*vs.*
*The Paschim Banga Gramin Bank & Ors.*

*Mr. Sabir Ahmed*
*Mr. Shraman Sarkar*
*Mr. Apan Saha*
*…for the Petitioners.*
*Mr. Baidurya Ghosal*
*… for the respondent nos.1,2 and 3.*
*Mr. Raja Saha*
*Md. Hasanuz Zaman*
*… for the State.*

Petitioners assail a sale notice put up by the bank in respect of their immovable property.

Learned Advocate appearing for the petitioners submits that the private respondent sold a demarcated area of an immovable property to the petitioners by a registered deed of conveyance in the year 2012. The bank is now claiming mortgage over the property belonging to the petitioners. He draws the attention of the Court to the valuation of the immovable property put up for sale. He submits that bank did not demarcate the portion that the private respondent sold to the petitioners. He also contends that there are 12 decimals of land standing in the name of the private respondent. According to him, the bank cannot claim mortgage over the property belonging to the petitioners. Nonetheless, in order to avoid disputes, he submits that the petitioners are ready and willing to put in security for the entire value of the immovable property as specified in the impugned notice.

The bank and the State are represented.

On query from the Court, learned Advocate appearing for the bank submits that the sale is fixed on August 30, 2021. He also contends that the entire property was mortgaged by the private respondent to the bank.

The claim for entire mortgage is disputed on behalf of the petitioners.

The petitioners have a statutory alternative remedy under the provisions of the Act of 2002. Moreover, as pointed out on behalf of the bank, there is a proceeding under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 pending before the Debts Recovery Tribunal II, Kolkata being SA No.154 of 2021.

Since the petitioners are ready and willing to secure the valuation of the entire property, the petitioners are at liberty to do so. In the event, the petitioners put in the sum of Rs.8,01,387/- being the valuation of the immovable property concerned as specified in the sale notice, before the commencement of the sale of the immovable property by the bank, then, the bank will not proceed to sell such immovable property pursuant to the sale notice impugned herein. The petitioners are at liberty to avail of their remedies under the Act of 2002 before the appropriate forum in accordance with law. In the event, the petitioners do not approach the Debts Recovery Tribunal under the Act of 2002 in respect of the actions taken by the bank within four weeks from date, the bank is at liberty to proceed against the immovable property, in accordance with law, notwithstanding the deposit, if made.

WPA 13249 of 2021 is disposed of accordingly without any order as to costs.

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

(Debangsu Basak, J.)