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Court
No. 11 21.9.2021
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**MAT 1017 of 2021
With
CAN 1 of 2021**

M/s. Mukti Oil Mills Pvt. Ltd & Ors.

-Vs-

The State of West Bengal & Ors.

(Via Video Conference)

Mr. Ranjan Kali
Ms. M. Chakraborty

... for the appellants

Mr. Srijan Nayak
Ms. Rituparna Maitra

... for the respondent

Mr. Abhishek Halder
Mr. Arkaprava Sen

... for the respondent no.7

Mr. Ankit Surekha

... for the Bank

Mr. Pradip Kumar Roy
Ms. Shraboni Sarkar

... for the State.

Party/Parties is/are represented in the order of their name/names as printed above in the cause title.

Under challenge in this appeal is the order impugned of the Hon'ble Single Bench dated 14th September, 2021. The appellants were the writ petitioners before the Hon'ble Single Bench. The Hon'ble Single Bench took notice of the fact that by an earlier order dated 9th August, 2021 in the same writ petition, the writ petitioners/the present appellants were directed to pay the entire amount of dues owed by the appellants to the respondent no.5/the Baidyabati Sehoraphuli Co-operative Bank Limited (for short, the Co-operative Bank) along with the costs of sale.

An unconditional stay for handing over the

possession of the premises in question was granted up to the 8th of September, 2021 and, in the event the amount as directed to be paid by the Hon'ble Single Bench in terms of the order dated 9th of August, 2021 was paid, the said unconditional stay shall continue.

It was further made clear that in case of default, the Co-operative Bank shall be entitled to proceed in accordance with the law. The Hon'ble Single Bench was further pleased to clarify that the interim direction has been granted to the writ petitioners/the present appellants recognising the interim direction as granted earlier by the Hon'ble Single Bench of this Court pursuant to an earlier writ petition filed by the present appellants.

It was also noticed by the Hon'ble Single Bench that the opportunity to pay up the dues as directed by the order dated 9th of August, 2021 has been granted since the writ petitioners/the present appellants could not be heard out in the pending writ petition during pandemic.

By the subsequent order in the same writ petition being WPA 11886(W) of 2021 which is under challenge in this appeal dated 14th of September, 2021, the Hon'ble Single Bench clearly noticed that the writ petitioners did not pay the said amount as directed to be paid by the order dated 9th of August, 2021.

Additionally, in respect of the other Non Performing Assets (NPA) an amount of almost Rs.18 crores is due from the writ petitioners/the present appellants.

Reserving its comments on the other NPA accounts, the Hon'ble Single Bench after holding that the sale in question has been confirmed in favour of the purchaser

since the unconditional stay expired on non-payment of dues within the time prescribed by the order dated 9th of August, 2021 the interim protection granted to the writ petitioners/the present appellants stood withdrawn and, the Hon'ble Single Bench and the Co-operative Bank was entitled to conclude the sale by handing over possession to the *bona fide* purchaser.

Parties were granted the opportunity to exchange affidavits. The prayer for stay made by the writ petitioners was considered and refused.

Mr. Kali, Learned Counsel appearing for the appellants/the writ petitioners, submits that the appellants are now ready with a demand draft payable on the Cooperative Bank amounting to Rs. 37 lakhs as directed by the order dated 9th of August, 2021. It is submitted that out of the total cost of sale of Rs.7 lakh, the appellants are also ready with a demand draft of Rs. 3 lakh.

Mr. Kali submits that several other points connected to the demand as well as the accounting principles connected to the loan are pending consideration before the Hon'ble Court. It is further submitted that the appellants be protected from outright handing over of the possession of the property and confirmation of sale in favour of the purchaser as directed by the order dated 14th of September, 2021.

Mr. Surekha, Learned Counsel, appears for the Respondent/the Co-operative Bank and submits that the total cost of sale as directed by the order dated 9th of August, 2021 has been assessed at Rs. 55 lakhs considering that the loan is an NPA long since 2012.

It is reiterated that there are several other loan accounts of the appellants of which principal amount stood at over Rs. 7 crores and the total assessed outstanding dues over and above the principal amount payable to the Co-operative Bank which has been noticed in the order dated 14th of September, 2021 stood at around Rs. 18 crores.

It is submitted by Mr. Surekha that the appellants are only seeking to settle one account of Rs. 37 lakhs and, on the basis of such overtures which have been displayed by the appellant for the past nine years since the NPA occurred in 2012, the Co-operative Bank stood implicitly precluded from disposing of the other assets involved which cover the outstanding dues up to Rs. 18 crore as noted on the date of the order dated 14th September, 2021.

Mr. Halder, Learned Counsel appearing for the purchaser, submits that the formalities connected to the sale have been completed and the sale has been confirmed in July, 2021.

Mr. Roy, Learned Counsel, appears for the State-respondents.

Having heard the parties and considering the materials placed, this Court finds that the Hon'ble Single Bench has painstakingly gone over the issue of sale in its order dated 9th August, 2021 as well as the subsequent order dated 14th September, 2021. In the opinion of this Court, the two orders dated 9th August, 2021 and 14th September, 2021, as already discussed above, require no further clarification. The Hon'ble Single Bench granted an opportunity to the appellants to pay and hence carry forward the unconditional order of stay pursuant to the

order dated 9th August, 2021.

The appellants not having complied with the order dated 9th of August, 2021 and without taking steps to write to the Co-operative Bank forwarding the amount of approximately Rs. 37 lakhs as directed, are now waving the demand draft before this Court thereby creating a scenario that the requirement to pay is not automatic but again, conditional upon one more outcome in the long litigation.

This Court further finds by the order dated 14th September, 2021 that the other contentions of the appellants/the writ petitioners have been kept open to be adjudicated on affidavits in the writ petition.

In the backdrop of the above discussion, this Court does not intend to intervene in the order of the Hon'ble Single Bench.

MAT 1017 of 2021 along with **CAN 1 of 2021** stand thus **dismissed**.

In view of the discussion as above, affidavits are neither required nor invited and the allegations made are otherwise deemed to be denied and disputed.

Parties to act on the gist of the communication of this order.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Kesang Doma Bhutia, J.) (Subrata Talukdar,J.)