14.01.2021
D/L-16,
Ct-1
(AD/Sc)

(Via Video Conference)

MAT 1975 of 2019
With
IA No.:CAN 1 of 2020 (Old No.:CAN 335 of 2020)

Central Bank of India, Raiganj Branch & Anr.
Vs.
Sarkar Products and Trading Private Limited & Anr.

Mr. Biswambher Jha
... for the petitioners.

Mr. Ishan Saha
... for the respondents.

The appellant/bank took recourse to SARFAESI proceedings to bring to sale a property of a defaulting debtor. The writ petitioner/respondent was the auction purchaser. The sale, however, although confirmed by the Debts Recovery Tribunal, was set aside by the Debts Recovery Appellate Tribunal. In the meantime, the writ petitioner had paid a substantial sum of money to the bank. In spite of requests, the bank did not refund such money although the sale had been set aside. Accordingly, the writ petitioner approached the learned Single Judge by filing W.P. No.21382(W) of 2019.

The learned Judge allowed the writ application by holding that since the sale had been set aside, their could be no justification for the bank to hold on to the money of the writ petitioner. The learned Judge noted the submission of the bank that the order of the DRAT was under challenge in this Court in an application under Article 227 of the Constitution of India. The learned Judge observed that the writ petitioner ought not to wait indefinitely for the result of such revisional application for getting their money back. The learned Judge directed the bank to refund the money paid by the writ petitioner within a week from the date of the order along with interest as directed by the DRAT.

Being aggrieved, the bank is before us by way of the present appeal.

We have heard Mr. Jha, learned Counsel for the bank at length and also Mr. Saha, learned Counsel for the writ petitioner/respondent.

We are completely in agreement with the order of the learned Single Judge. The sale having been set aside by a competent authority, there can be absolutely no valid reason for the bank to withhold the money paid by the writ petitioner to the bank. If the bank does so, it will amount to unjust enrichment of the bank at the expense of the writ petitioner. That is impermissible in law. We see no infirmity, irregularity, illegality and/or impropriety in the order under appeal. We affirm the order.

In the result, the appeal and the connection application are dismissed.

There will be no order as to costs.

This order, by itself, will have no bearing on the revisional application that the bank has preferred against the order of the DRAT.

(Thottathil B. Radhakrishnan, CJ.)

(Arijit Banerjee, J.)