

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Via video conference)**

W.P.A. No. 11452 of 2020

**Ahmmad Halder
Vs.
State Bank of India & Anr.**

Mr. Sandip Das ... for the petitioner

Mr. Victor Dutta ...for the State Bank of India

The petitioner's grievance is that, despite having successfully purchased a property from the respondent-bank in an e-Auction and certificate of sale having been issued in favour of the petitioner, the possession of such property is not being given to the petitioner.

Learned counsel appearing for the respondent-bank submits that, subsequently, the borrower filed an application, bearing No. S.A. 675 of 2019, before the Debts Recovery Tribunal and obtained an interim order on March 13, 2020, restraining the successful bidder from creating any third-party right over the property-in-question.

However, such plea of the bank is not tenable in law and fact, since it was categorically mentioned in the sale notice, annexed at page 13 of the writ petition, that the bank had taken over physical possession of the property-in-dispute. Moreover, a certificate of sale was issued in favour of the writ petitioner, wherein it was

mentioned, inter alia, that the authorized signatory of the State Bank of India acknowledged the receipt of Rs.31,03,000/-, being the sale price in full, as the highest bid amount in the auction and handed over the delivery and possession of the scheduled property. It was further mentioned therein that the sale of the scheduled property was made free from all encumbrances known to the secured creditor listed thereinbelow on deposit of the amount demanded by the signatory of the certificate.

Moreover, the interim order of the Tribunal dated March 13, 2020, which is relied on by the bank, also indicates that the successful bidder was restrained from creating any third party interest, indicating that ownership had already been transferred to the successful bidder, that is, the present petitioner.

Hence, there cannot be any impediment for the bank to hand over the physical possession of the property to the writ petitioner.

Accordingly, W.P.A. No. 11452 of 2020 is allowed, thereby directing the respondent-authorities to hand over the property-in-question, that is, all that part and parcel of the property consisting of land measuring 1 cottah 03 Chittak 15 sq. ft. and building area 1110 sq. ft., Deed No. I 609 and D 5110, R.S. Dag No. 487 and 488, L.R. Dag No. 557, C.S. Khatian No. 54, L.R. Khatian Nos. 1060, 1061 & 1062 of Mouza

Ramnarayanpur, J.L. No. 129 of Ghateswara Gram Panchayet under Mandir Bazar Panchayet Samity, under P.S. Mandir Bazar, District- South 24 Parganas, to the writ petitioner within a week from date.

It is made clear that, in the event the respondents require police protection for such handing over of possession, the respondents will be free to approach the police-authorities for such assistance.

If so approached, the police-authorities shall extend full co-operation in the matter and provide adequate police personnel to ensure free and smooth hand-over of possession. Such police help shall be granted at the costs of the respondent no. 1, as per the estimate given by the police-authorities.

It is made clear that the deposit of such police help costs shall not be an impediment for the respondents in handing over the possession within a week from date, as directed herein.

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 parties shall act on the communication of the leaned advocates and/or server copy of this order without insisting upon prior production of certified copy.

(Sabyasachi Bhattacharyya, J.)