

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO NO.343 OF 2020
SUSIT KUMAR BISWAS
Versus
PUNJAB NATIONAL BANK & ORS.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date : 11th March , 2021

Appearance :
Mr. Meghnad Dutta,
Mr. Arindam Paul, Advs.,
for the petitioner.

Mr. Victor Dutta, Adv.,
for the respondent.

The Court : GA 1 of 2021 is moved for compensation to the petitioner by the respondent-bank for the bank having lost the original documents (title deeds) deposited with the bank by the petitioner as security. Learned Counsel for the petitioner argues that in view of the irreparable loss caused to the petitioner, since the documents were misplaced due to the negligence of the bank, the petitioner is entitled to compensation at least to the tune of Rs.1 lakh for each year since December 13, 2018.

It is further submitted by learned Counsel for the petitioner that the bank took steps regarding obtaining certified copies and/or lodging complaint regarding the loss of the original title deeds only after the second writ petition was filed, whereas it had been submitted by the bank on previous occasion that the title deeds were lying in the Debts Recovery Tribunal.

However, learned Counsel for the respondent-bank has sufficiently satisfied this Court as regards the bona fides of the bank in taking all possible steps to find out the documents, alternatively to obtain certified copies of the title deeds. The bank not only

lodged appropriate complaint regarding the loss of the title deeds but also published newspaper advertisements regarding the loss of such documents, in the endeavour to find those out.

That apart, when the matter is taken up today, learned Counsel for the respondent-bank produces certified copies of the said title deeds which were obtained by the bank itself in the meantime. The loss of the deeds, if at all, even going by the admission of the bank, was from the records of the Tribunal and not from the custody of the bank. Although, a statement has been made by the bank in its affidavit that the documents were lost from their custody, such custody was notional in the present case in view of the title deeds having been deposited in the Tribunal. Thus, since there is no deliberate negligence on the part of the bank apparent on the face of the materials on record, the bank ought not to be saddled with compensation.

Accordingly, WPO 343 of 2020 along with GA 1 of 2021 are disposed of by directing the petitioner to collect the certified copies of the relevant title deeds from learned Counsel appearing for the bank during the course of the day.

No order as to costs.

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

(SABYASACHI BHATTACHARYYA, J.)