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WPO/1131/2021
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

MANORAMA TIWARI AND ORS
VS
UNION BANK OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date : 22nd November, 2021.

Appearance:
Mr. Ranajit Chatterjee, Adv.
…for petitioners.
Ms. Aparajita Rao, Adv.
…for respondents.

The Court: Learned Counsel appearing for the petitioners contends that the petitioner no. 1 is surviving partner of a partnership firm which stood dissolved subsequently in view of the death of the only other partner, being late Mukteswar Tewari, the petitioner's deceased husband.

The present petitioners, as heirs and/or legal representatives of the said late Mukteswar Tewari, have approached this Court with a grievance that despite several orders of this Court passed in WP 16877(W) of 2019 having been complied with by the firm (initially) and thereafter by this surviving partner, the bank has not accepted the proposal of settlement which was virtually sanctioned by the orders of this Court and has not released the securities and documents still in custody of the bank.

Learned Counsel appearing for the respondent Bank is justified in contending that in the absence of a formal acceptance, on the part of the petitioners, of such settlement between the petitioners and the bank, the bank officials would be at a risk in the event they take a decision on their own for releasing the securities, more so since the bank is performing public functions and dealing with public mney.

However, it appears from the successive orders of the Co-ordinate Bench of this Court in WP 16877 (w) of 2019, as annexed to the writ petition, that the petitioners substantially acted upon the initial offer of acceptance, annexed at page 27 of the writ petition, although all technical formalities were not concluded thereon.

However, since the loan of the bank, as agreed upon by the bank, has substantially been repaid by the petitioners in consonance with the settlement arrived tentatively, there cannot be further impediment in returning the documents by the bank subject to the petitioners acknowledging their formal acceptance to the offer of settlement annexed at page 27 of the writ petition.

Accordingly, the petitioners are directed to submit before the respondent no. 1-bank, positively by November 26, 2021, all necessary papers acknowledging their acceptance of the offer a settlement annexed at page 27 of the present writ petition, subject to the bank being satisfied that terms which were agreed upon by the bank in principle by the acceptance letter at page 27, have been satisfied by the petitioners. The respondent no.1-bank shall, immediately thereafter, release the necessary securities and all ancillary documents, including the 'no dues' certificate, as early as possible in favour of the petitioners. The parties shall act on the server copy of this order, accompanied by the communication of the learned Advocate for the parties, without insisting upon prior production of the certified copy.

WP 1131 of 2021 is disposed of accordingly.

No order as to costs.

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

(SABYASACHI BHATTACHARYYA, J.)

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