

09.03.2022
Sl. No.4
srm

W.P.A. No. 1095 of 2022

M/s. P.M. Enterprises

Versus

The State of West Bengal & Ors.

Mr. Sujit Kumar Rath

...for the Petitioner.

Mr. Madan Mohan Roy

...for the Respondent Nos.4, 5 & 7.

Mr. Kumaresh Dalal

...for the Respondent Nos.8 & 9.

Mr. Sirsanya Bandyopadhyay,

Mr. Subhendu Sengupta

...for the State-respondents.

Affidavit of service is taken on record.

Instead of relegating the petitioner to the alternative remedy as per Section 102 of the West Bengal Co-operative Societies Act, 2006, this Court is of the opinion that as the borrower/petitioner has submitted fairly before the Court that the petitioner shall pay up at least a major portion of the amount due, in instalments, the writ petition is entertained.

A sale officer has been appointed and a sale notice has been issued. The date of auction has been fixed on March 16, 2022. The law provides that if the borrower pays up the dues, the sale can be abandoned. Further, another opportunity has been provided in the statute for cancellation of the sale.

Thus, in the opinion of the Court, there is no bar under the statute for the Court to direct the parties to settle the dispute according on the following terms:-

- (a) Within March 15, 2022, the petitioner/borrower shall pay a sum of Rs.8 lakh by way of a demand draft.
- (b) A further sum of Rs.2 lakh shall be paid by way of a demand draft within April 18, 2022.
- (c) The remaining amount payable shall be decided on the basis of a onetime settlement between the petitioner and the bank.
- (d) The petitioner will approach the bank with an offer for the onetime settlement and the competent authority of the bank shall sit with the petitioner and take a decision in this regard within two months from April 18, 2022.

The sale notice will remain stayed up to July 18, 2022. However, in case of default in making payment of any of the instalments, as directed hereinabove, the sale notice shall revive and the bank can take steps in accordance with law.

In the event the onetime settlement fails, parties shall be at liberty to proceed in accordance with law, before the appropriate forum.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order as also the learned Advocates communication.

(Shampa Sarkar, J.)