

S/L 7
03.03.2022
Court. No. 19
GB

W.P.A. 1137 of 2022

M/s. Joy Baba Tarakeswar (Mini) Rice Mill & Ors.
VS
The State of West Bengal & Ors.

Mr. Kunaljit Bhattacharjee,
Ms. Jayati Chowdhury.

...for the Petitioners.

Mr. Arnab Ray.

...for the Respondent Nos. 2 & 3.

Affidavit-of-service filed in Court today be kept with the record.

This writ petition is in the nature of an appeal before this Court to direct the Burdwan Co-operative Agriculture and Rural Development Bank Limited (hereinafter referred to as the 'said bank') to consider the offer of a one time settlement made by the petitioners, vide letter dated January 4, 2022. It appears that the petitioners had obtained a loan from the said bank. The petitioners failed to pay the amount. The bank directed the petitioners to pay the same and also reserved rights to proceed under the law for sale of the property, in case of inability of the petitioners to pay up the dues within the timeframe prescribed by the authority. Admittedly, the petitioners failed to pay up the loan along with the interest. The loan amount with interest kept increasing from time to time. There are documents to show that there had been correspondence and meetings between the parties and the petitioners had consented to the sale of the property so that the loans were recovered from the sale

proceedings. The bank did not sell the property at the relevant point of time and the petitioners have now come with a representation and an offer for a onetime settlement.

Mr. Ray, learned advocate appearing on behalf of the bank raises the point of maintainability of the writ petition. He submits that as the transaction between the petitioners and the bank relates to the banking business, the disputes should be adjudicated as per Section 103 of the West Bengal Co-operative Societies Act, 2006. He next submits that as per the request of the petitioners the sale notice has been issued and a sale officer has already been appointed, as per his instructions. He further submits that such sale notice, which was issued subsequent to the consent given by the petitioners, cannot be challenged by the petitioners by way of this writ petition.

The point of maintainability of the writ petition is not gone into by this Court in view of the fact that the Court refrains from passing any order with regard to the correctness of the sale notice or the computation of the amount contained in the notice. These are facts, which have to be decided by the appropriate forum. However, as the petitioners have made a request before the authority for a onetime settlement and the Rule 191E of the West Bengal Co-operative Societies Rules, 2011 provides that an opportunity must be given to the borrower to pay up the loan amount and the sale may be consequently abandoned, the Court is of the opinion that justice would be sub-served if the writ petition is disposed of with a direction upon the Chief Executive Officer,

Burdwan Co-operative Agriculture and Rural Development Bank Limited to dispose of the representation of the petitioners dated January 4, 2022 in accordance with law within a period of one month from the date of communication of this order.

The petitioners will be called for a hearing. The petitioners will be entitled to be represented by a learned advocate. The petitioners will be entitled to produce all documents before the said authority and a reasoned order will be passed. The authority shall take a decision with regard to the request of the petitioners for a one time settlement. Thereafter, if the transaction fails, the authority may proceed in accordance with law.

The Court has not interfered with the factual aspects and the correctness of the notices placed before this Court. The question of maintainability is not decided. The notice of sale shall not be given effect to, till the disposal of the representation.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order/learned advocates' communication.

(Shampa Sarkar, J.)