

13 11.08.2022

gd/ssd

MAT/709/2022
IA NO: CAN/1/2022, CAN/2/2022
SRI TAPAN KUMAR CHATTERJEE AND ANR.
VS
STATE OF WEST BENGAL AND ORS.

Mr. Sukanta Ghosh
..for the Appellants.

Ms. Sipra Majumdar,
Ms. Prativa Ghatak
..for the State.

Mr. Pijush Kumar Ray,
Mr. Sourajit Mukherjee
..for the Respondent No.2.

CAN 2 of 2022 has been filed by the appellants seeking condonation of delay in filing this appeal.

Having heard the learned counsel for the parties and on perusal of the record, we find that the delay of 46 days in filing this appeal has been sufficiently explained and the appellants were prevented from filing the appeal within time on account of bona fide reason. Hence, CAN 2 of 2022 is, accordingly, allowed. The delay in filing the appeal is condoned.

Heard on merit.

This intra court appeal is at the instance of the private respondents in WPA 16794 of 2021 challenging the order of the learned Single Judge dated 17.02.2022 whereby the writ petition has been disposed of with certain directions.

The respondent no.2/Bank herein had filed the writ petition before the learned Single Judge seeking police assistance for compliance of the order of the District Magistrate passed under Section 14 of the SARFAESI Act.

The appellants are the borrowers and learned counsel for the appellants does not dispute that they had committed the default in repayment of the loan amount.

Learned Single Judge had directed the OIC of concerned Police Station to deploy police force to carry out the order of learned District Magistrate.

At this stage, only submission of learned counsel for the appellants is that in the sale which is to be conducted by the respondent no.2/Bank a residential house of the appellants is sought to be sold and the appellants are ready to repay the entire amount.

Learned counsel for the respondent no.2/Bank has pointed out that the direction issued by the learned Single Judge in the order under challenge has already been complied with and in pursuance thereto the possession of the property in question has already been taken by the respondent no.2/Bank on 17th March, 2022.

Learned counsel appearing for the respondent no.2/Bank has fairly stated that the reserve price for

sale of the house in question by way of private treaty is Rs.14,07,000/-. He has submitted that if the appellants deposit the entire reserve price by tomorrow 2 P.M., then the sale by private treaty fixed for tomorrow will be deferred and the amount paid will be adjusted against the due amount which is payable by the appellants.

The submission made by learned counsel for the respondent no.2/Bank appears to be reasonable and fair.

We find that order of learned Single Judge does not suffer from any error.

Hence, we dispose of the appeal taking note the submission of the learned counsel for the respondent no.2/Bank.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

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