29th June, 2022
(D/L No.36)
(SKB)

W.P.A. 12168 of 2021

Amitava Ghosh
Versus
The Union of India and others

Ms. Shohini Chakraborty
... for the petitioner.

Mr. Ujjwal Kumar Sarkar
... for the Bank.

From the material on record, it appears that the time for payment of the balance amount of 75% by the petitioner was unilaterally extended by the Bank. This would appear from the letter of the Bank dated 6th February, 2021 which states that the Bank has now extended the time for deposit of the remaining amount till 12th February, 2021. According to the Bank, the Bank has given another extension till 2nd March, 2021.

The case of the petitioner is that the petitioner went to deposit the balance 75% on 12th February, 2021 after the closing of banking hours, reason for which the Bank refused to take the balance amount.

The petitioner is now aggrieved by letter dated 2nd March, 2021 by which the Bank has refused to return the amount of Rs.17,88,500/- to the petitioner in view of Rule 9 of The Security Interest (Enforcement) Rules, 2002 (hereinafter referred to as "The Rules, 2002").

After considering the documents on record, the Bank by unilaterally extending the period for payment of the balance amount, it has acted contrary to the Rule 9(4) of The Rules, 2002. Under the said Rule, the time for payment can only be extended in writing as agreed upon between the purchaser and the Security. The expression "as agreed upon" implies that there must be concurrence on the part of the purchaser (the petitioner in this case). There is no document on record to show that the petitioner requested for such an extension of time.

Having acted contrary to the requirement of Rule 9(4) of The Rules, 2002, the Bank cannot turn around and refuse to return the balance amount to the petitioner. Reference in this regard also be made an order passed by a co-ordinate Bench in *W.P.6942(W) of 2017 (Souvik Pal and another Vs. Dewan Housing Finance Corporation Limited and others).* In that case, the respondent no.1 was directed to refund the said amount along with interest calculated at the rate of 18% per annum from the date of deposit of the money till the date of refund to the petitioner.

W.P.A.12168 of 2021 is accordingly allowed and disposed of by directing the UCO Bank to return the amount of Rs.17,88,500/- to the petitioner within a period of four weeks from date along with interest @

18% per annum from the date of deposit of the said amount till the date the amount is actually refunded to the petitioner.

(Moushumi Bhattacharya, J.)