

28.01.2022
Court No.13
Item No.39
AP

WPA 15132 of 2021

Rakho Hari Ghosh
Vs.
The Indian Bank and Ors.
(Through Video Conference)

Mr. Siddhartha Sarkar

... For the Petitioner.

Mr. Om Narayan Rai

... For the Respondent.

The petitioner is aggrieved by a defect in title of a property sold by an auction under the SARFAESI Act, 2002. The petitioner participated in the sale and succeeded thereat.

Learned counsel for the petitioner places a communication of the respondent Bank's advocate indicating that the record of rights indicates persons other than the borrower as possessors.

The said advocate has also opined that the property is defective and the sale is not in compliance with the SARFAESI Act, 2002.

A request for refund of the money put in by the petitioner towards auction, has been kept pending consideration.

Mr. Rai appears on behalf of the respondent Bank and submits that the sale was conducted on "as is where is whatever there is basis" and applying the principle of caveat emptor, the writ petitioner should have verified the title of the property independently.

This Court is, therefore, of the view that the petitioner's grievance should be addressed at this stage by

directing the respondent No.2 to consider and dispose of the petitioner's application dated 19th July 2021. Let the representation be disposed of in accordance with law within a period of one month from date and reasoned order may be passed and the same may be communicated to the writ petitioner within a period of seven days thereof.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)