

20.01.2022  
Court No. 19  
Item no.28  
sn

WPA 15600 of 2021

M/s. Snehasish Developers  
Vs.  
The State of West Bengal & Ors.  
(Through Video Conference)

Mr. Dhiman Sengupta  
Ms. Sweta Saha ... for the Petitioner

Mr. Subhabrata Datta  
Mr. Sanatan Panja ..for the State

The petitioner is the sole proprietor of a business, named and styled as “M/s. Snehasish Developers”. The respondent nos. 3, that is, the Baranagar Co-operative Bank Limited was a mortgagee in respect of some immovable property being third floor and ground floor of a building except 400 sq ft shop room in the North Eastern side, situated at 240, B.T. Road, Kolkata 700 036 against the loan disbursed to one M/s. Regious Project. The loan account of M/s. Regious project was declared to be an NPA. Pursuant to a proceeding under the SARFAESI Act the bank had come into possession of the said floors of the building. The said property was auctioned upon appointment of a sales officer. The petitioner participated in the said auction on April 4, 2014. The petitioner was the highest bidder and total consideration of Rs.18,51,100/- was paid. The sale

certificate was issued in favour of the petitioner. It is submitted that the possession has been handed over to the petitioner in terms of sale certificate dated July 23, 2014.

Sometime in January, 2015 the bank went into liquidation and the official liquidator took over the bank.

Since December, 2014, the petitioner has time and again requested the bank authorities and subsequently the official liquidator for registration of deed of the conveyance pursuant to the issuance of sale certificate with respect to the property purchased by the petitioner at the auction.

After several communications, the Co-operative Development Officer, Co-operation Directorate, who was also official liquidator intimated the petitioner by a letter dated August 4, 2021 that the issue of registration was pending for the guidance and direction of the Registrar of Co-operative Society, West Bengal. The records reveal that the petitioner is the auction purchaser. Full and final settlement was made by the petitioner pursuant to the proceedings under the SARFAESI Act. The sale certificate was issued in favour of the petitioner. The possession was handed over to the petitioner. The bank went into liquidation some time in 2015. The official liquidator has failed and neglected to execute the deed of

conveyance and is awaiting decision of the Registrar of Co-operative Society. It is also submitted that after liquidation of the bank, all the creditors including the employees have been paid their share and nothing further remains to be done with regard to the winding up process. The premises, which is already in the occupation of the petitioner now must be registered by issuance of a deed of conveyance by the official liquidator.

Under such circumstances, this writ petition is disposed of with a direction upon the Registrar of Co-operative Societies to treat the writ petition as a representation and dispose of the same in accordance with law. A bona fide purchaser for value cannot be deprived of his right to the property, except in accordance with law. In this case, there is nothing on record to suggest that the property should not be registered in the name of the petitioner for certain non-compliances.

This Court has not gone into the merits of claims and counterclaims of the parties, but the records reveal that the contention of the petitioner, prima facie, appear to be correct.

A reasoned order shall be passed and communicated to the petitioner. The petitioner shall be given a hearing along with the official liquidator of the said bank.

The entire issue shall be decided within a period of two months from the date of two months from the date of communication of this order.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

**(Shampa Sarkar, J.)**