

24.8.2022
Sl.No.7
sn

WPA 19008 of 2022

Ahadul Sekh
Versus
The State of West Bengal & Ors.

Md. Salahuddin
Md. Ahsanuzzaman
Md. Raziuddin

..for the petitioner

Mr. Debasish Ghosh
Mr. Ratul Das

..for the State

Mr. Srijan Nayak
Ms. Rituparna Maitra

.for the respdts.1-3

The matter was mentioned for urgent listing as the bank has decided to hold the sale of the property of the petitioner by auction on August 25. 2022. The petitioner has not been able to show that the concerned bank has been served with the notice of the writ petition.

Section 191E of the West Bengal Co-operative Societies Rules, 2011 provides for abandonment of the sale. Prior to the actual sale, if the mortgagor or any person acting on his behalf or any person having interest in the mortgaged property tenders payment of the full amount due, including interest and cost incurred in connection with the sale of the property, the sale officer shall not proceed with the sale.

The petitioner has not approached the sale officer showing any intention to make such payment.

Section 191 I of the said rules also provides that the mortgager or any person interested may within a period of thirty days from the date of the sale, apply to the Board of the bank or the society for setting aside the sale.

Section 191 J of the rules provides that after expiry of thirty days from the date of sale, the bank may set aside the sale or confirm the sale.

Under such circumstances, although the sale has been fixed for tomorrow, the petitioner may avail his remedy under Section 191 E, 191 I and 191 J.

Under such circumstances, no further order need be passed in the writ petition.

The petitioner will be at liberty to approach the Bank, in accordance with law and as per direction of this Court and the bank authorities are within their jurisdiction to take steps on the basis of the application filed by the petitioner.

This Court has not expressed any opinion on the quantum demanded and it is for the bank and the petitioner to negotiate the amount payable. The computation of the principal and interest shall be provided to the petitioner. In view of the fact that the bank has not been served, the prayer of the petitioner for stay of sale cannot be allowed.

Parties are directed to act on the basis of the learned advocate's communication.

The writ petition is disposed of

There will be, however, no order as to costs.

All parties are to act on the basis of the server
copy of this order.

(Shampa Sarkar, J.)