

Ct. 05
Item No.10
21.09.2022
(Suvendu)

WPA 19261 of 2022

Biswajit Bose
Vs.
UCO Bank & Ors.

Mr. Suddhadev Adak

.....for the petitioner

Mr. Krishna Das Poddar

.....for the respondent Bank

The affidavit-in-opposition and the affidavit-in-reply are taken on record.

The petitioner claims that the petitioner made payment of Rs. 9,33,000/- to the respondent Bank as a successful auction purchaser on 13th April, 2021 but that the petitioner was not delivered vacant possession of the said immovable property till filing of the writ petition in August, 2022. The petitioner now claims refund of an amount of Rs. 9, 33,000/-.

The case of the respondent Bank is that the petitioner was handed over possession of the scheduled property in April, 2021 which would appear from a Sale Certificate dated 13.04.2021.

The petitioner disputes the stand of the Bank on the ground that the petitioner has a

pendrive and other video recordings to show that the erstwhile manager of the respondent Bank admitted to the petitioner not having got possession of the scheduled property.

The Sale Certificate dated 13.04.2021 for immovable property clearly records that the Bank has received the amount of Rs. 9,33,000/- from the petitioner and has handed over possession of the scheduled property to the petitioner. The document further mentions that the sale of the scheduled property was made free from all encumbrances known to the secured creditor. The Sale Certificate is signed by the authorized officer of the Bank. This document is a part of the writ petition. The only other document is an undated letter from the petitioner to the Bank stating that the Bank is holding the petitioner's money without handing over the physical possession of the property. The Track Consignment shows that the letter was delivered some time in July, 2022. It is strange that the petitioner waited for more than one year from the date of making payment to the Bank before writing the letter in July, 2022. The petitioner has not been able to make out any case for grant of relief as prayed for.

In any event, the petition appears to involve the matters of evidence on whether the

Bank has allegedly acknowledged the money lying with the Bank and the property not being handed over. The writ court is not equipped to deal with such matters of evidence. The petitioner should approach a civil forum for appropriate relief.

WPA 19261 of 2022 is accordingly dismissed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)