

22.04.2022

Court No.32
rpan/ 36

MAT 1547 of 2016

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IA No.: CAN 1 of 2016 [Old No.: CAN 8631 of 2016]

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CAN 2 of 2016 [Old No.: CAN 8633 of 2016]

Bipad Taran Chowdhury

- Versus -

UCO Bank & Ors.

Mr. Prosenjit Mukherjee,

Mr. Arghya Kamal Das

... for the Appellant.

Mr. Sudeep Pal Choudhury

... for the Bank-Respondents.

The present appeal has been preferred against an order dated 6th May, 2016 passed in W. P. No.6780 (W) of 2016.

As we have invited Mr. Mukherjee, learned advocate appearing for the appellant to argue on merits of the appeal, the delay in preferring the appeal is condoned and the application for condonation of delay, being CAN 8633 of 2016 is allowed.

It is the contention of Mr. Mukherjee that the learned Single Judge, upon arriving at a conclusion that the auction notice was absolutely illegal, refused to cancel and set aside the same.

He further submits that the learned Single Judge ought not to have granted liberty to the bank to proceed in accordance with law against the petitioner/appellant for realization of its dues.

Mr. Pal Choudhury, learned advocate appearing for the bank-respondents submits that there is no

infirmity in the order dated 6th May, 2016 and the appeal is liable to be dismissed.

We have heard the learned advocates appearing for the respective parties.

A composite reading of the impugned order dated 6th May, 2016 reveals that as the auction notice was published with the writ petitioner's photograph and as such act was unsustainable in view of the judgment delivered in the case of **Ujjal Kumar Das & Anr. Vs. State Bank of India & Others**, reported in (2013) 2 Cal. LT 639(HC), the publication of such photograph in the auction notice was held to be illegal and the bank was asked to publish notices tendering public apology. It was also observed thereafter that the order passed would not preclude the bank from proceeding in accordance with law against the writ petitioner/appellant for realization of its dues.

We do not find any infirmity in such decision. The order dated 6th May, 2016 is a reasoned one and no interference is called for. Accordingly, the appeal and the application for stay, being CAN 8631 of 2016 are dismissed.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Sugato Majumdar, J.) (Tapabrata Chakraborty, J.)