

28.09.2022
Ct. 5
D/L 12
ab

WPA 20974 of 2018
With
IA. CAN 1 of 2019(Old CAN 8971 of 2019)

Bikash Chandra Ghosh
-Vs-
Union of India & Ors.

Md. Basir Layek

... for the petitioner

Ms. Sangeetha Ghosh,
Ms. Aditi Roy

... for the respondent Bank

The Report in the form of an affidavit on behalf of the respondent Bank is taken on record.

Learned counsel appearing for the respondent Bank submits that the petitioner's tractor was seized by the Enforcement Agent of the respondent Bank in 2018 and the respondent Bank hence is not in a position to return the tractor to the petitioner.

Since it has already been found and stated in the order dated 9th September, 2022 that there is no outstanding loan amount existing in the name of the petitioner as on date and the respondent Bank had already given a No Dues Certificate to the petitioner on 31st March, 2018, the respondent Bank must

compensate the petitioner for failing to return the petitioner's tractor from 2018 despite the petitioner writing to the respondent Bank for return of his tractor from September, 2018 onwards.

For the sake of repetition, the petitioner had hypothecated his tractor to the respondent Bank in exchange for a loan which was subsequently returned by the petitioner to the respondent Bank in March, 2018. The respondent Bank gave a No Dues Certificate on 31st March, 2018.

The respondent Bank says in its affidavit that the tractor costs approximately Rs. 1,13,000/- at the time of seizure in 2018 while the petitioner submits through learned counsel that the tractor would have fetched a value of Rs. 5,00,000/- in 2018. This Court cannot discount the fact that the petitioner would have profitably used the tractor from 2018 till 2022 had the respondent Bank responded to the petitioner's plea for return of his tractor.

The respondent Bank shall hence pay an amount of Rs. 2,00,000/- to the petitioner along with interest @ 8% per annum calculated from 31st March, 2018 to the date on which the payment is made to the petitioner. The respondent Bank shall make payment of the amount within 15 days from today as prayed for.

WPA 20974 of 2018 and the application being
CAN 1 of 2019 (Old CAN 8971 of 2019) are disposed of
in terms of the above.

(Moushumi Bhattacharya, J.)