

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 18540 of 2014

S. Rajalaxmi Nayak

....

Petitioner
In Person

KVA Karur Vysya Bank

....

Opp.Parties
Mr. M. Balakrishna Rao, Advocate

CORAM:
JUSTICE BISWANATH RATH
JUSTICE M.S.SAHOO

ORDER
01.09.2023
I.A. No. 427 of 2022

Order No.
15.

1. Party appearing in Court in person. Made submission through I.A. No. 427 of 2022 bringing in a request for modification of the order of this Court dated 18.11.2022 passed in W.P.(C) No.18540 of 2014.
2. In course of submission, taking this Court to the plea in the writ petition, reading together the prayer, further reading together with the interim order passed by this Court dated 26.09.2014, as an interim measure, involving Misc. Case No.16434 of 2014, a submission is advanced by the party in person that after interim order dated 26.09.2014 was passed on receipt of certified copy of this order, party in person herein, the petitioner also served copy of this interim order on the management-institution herein on 29.09.2014. It is in the circumstances, a claim is made had this submission being brought to the notice of the Division Bench finally concluded the matter on 18.11.2022, the order would have been otherwise. There is also attempt by the party in person

making submission to the effect that there has been loss in the earning by putting the gold involved therein to clandestine auction. It is in the circumstances and for order dated 18.11.2022, submissions is advanced by the party in person to recall the order dated 18.11.2022 and there should be fresh disposal of the matter for the involvement of the submission of the party in person-petitioner.

3. Mr. Rao, learned counsel for the bank-institution herein, on the other hand, taking this Court to the detailed counter affidavit brought by the bank itself filed on 31.10.2014 reading through the same, submitted there has been already auction process involving the gold ornament in a way to clear the loan involved against the petitioner. Following required/approved procedure there has been finally auction of the gold ornament involved herein and the auction process yielded a sum of Rs.1,97,000/-. Taking this Court to the document to Annexure-G at page 18 of the brief it has been brought to the notice of this Court that there has been still outstanding balance on the date of auction i.e. total outstanding remained Rs.2,13,756/-, property auctioned at Rs.1,97,000/- after the adjustment of the auction price there has been still deficit balance of Rs.16,756/-. However, through the affidavit and the material disclosure, it has been established there has been waiver of the above deficit balance.

It is in the circumstances, Mr. Rao contested the entertainability of the present application.

4. Keeping in view the rival contentions of the parties as taken note hereinabove, in course of hearing, this Court finds undisputedly the writ petition involve a demand by the bank involved, entertaining the writ petition, the interim order in the writ petition came to be passed on 26.09.2014. On perusal of the document appended through the counter as at Annexure-H internal page 19 running page 31 of the brief, this Court finds this is a letter addressed to the Branch Manager of the Bank involved herein in Sishu Bhavan Chhak, Bapuji Nagar, Bhubaneswar submitted on 08.10.2014 clearly disclosing certified copy of the order in W.P.(C) No.18540 of 2014 came to be submitted before the Bank authority only on 08.10.2014. It is in the circumstances, for the auction already concluded by 29.09.2014, this Court finds undisputedly there has been service of certified copy involving interim direction of this Court after final date of auction and even auction already taken place. It is at this stage looking at the controversy herein, on order dated 18.11.2022 this Court finds the writ proceeding could be concluded only after recording the submission of the bank counsel on the aspect of finalization of the auction process involving gold ornament. The final order dated 18.11.2022 simply based on the pleadings of

the bank authority in their counter and further the submission of learned counsel on the date of posting clearly based on such submission even supported through their counter affidavit.

5. In the circumstances, since we do not find any illegality or infirmity in the impugned order, this Court finds no merit in entertaining the interim application herein which stands rejected. Before parting with the proceeding, this Court observe the petitioner herein, if so advised, to find out other options, if any, for involvement of the any other dispute remaining to be adjudicated in appropriate forum.

6. The I.A. thus stands disposed of.

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(Biswanath Rath)
Judge

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(M.S.Sahoo)
Judge

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Signature Not Verified

Digitally Signed
Signed by: AJIT KUMAR DUTTA
Reason: Authentication
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