

CRR 502 of 2023

In Re: An application under Article 227 of the Constitution of India in connection with Raniganj P.S. Case No. 381/2019 dated 13.10.2019.

In the matter of : Kotak Mahindra Bank Limited

...petitioner.

Mr. Abhishek Bhattacharjee, Adv.,
Mr. Sariful Haque, Adv.

...for the petitioner.

Mr. A.S. Chatterjee, Adv.

...for the State.

Memo of Evidence submitted by the State be kept with the records.

Having considered the order dated 13.10.2022, passed by the learned Chief Judicial Magistrate, Paschim Bardhaman, in connection with Raniganj P.S. Case No. 381 of 2019, dated 13.10.2019, I am of the view that the JCB which was seized in connection with the said case was handed over to the registered owner. So far as the present petitioner/Bank is concerned, the Bank claims that the opposite party no.2, to whom the vehicle has been handed over, is a defaulter for which arbitration proceedings have been initiated and an Award has been passed in favour of the Bank. According to learned Advocate for the petitioner, execution proceedings have also commenced.

So far as the execution proceedings are concerned, if an order is passed, in that case, the Police authority would give it to the Bank for recovery of the concerned JCB. But so far as the present case is concerned, the same is for a different set of

offence and as such, the learned Magistrate did not err in law while handing over the vehicle. However, in view of a defaulter being in possession of the JCB, it is directed that henceforth the opposite party no.2 would once in a week report to the Officer-in-Charge of Raniganj Police Station and produce documents to the effect that he is retaining the custody of the vehicle. If the Bank authorities intend to cross-check the same as to whether the opposite party no.2 is complying with the direction of this Court, the Investigating Officer will share the acknowledgment/ documents with the Bank authorities regarding the availability of the JCB.

With the aforesaid observations, the revisional application being CRR 502 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Tirthankar Ghosh, J.)