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28.08.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 7772 of 2023

Kalpana Maity
Vs.
The Reserve Bank of India & Anr.

Mr. Purnasish Gupta,
Mr. Jayanta Kumar Mukhopadhyay,
Ms. Sruti Dey
... for the petitioner

Affidavit-of-service filed in Court today be kept on record.

Learned counsel for the petitioner contends that the petitioner was a co-borrower with her husband, since deceased. Subsequently, the petitioner repaid the entire loan amount to the respondent no. 2/ creditor Bank and sought back the title deed, which was furnished as security.

Although such title deed stands in the name of the petitioner, the same is not being handed over to the petitioner for some unknown reason by the Bank.

Apparently, since the petitioner could not produce a death certificate on her husband, the Bank initially refused to hand over the title deed. Subsequently, on the petitioner giving a representation, annexed at page 40 of the writ petition, the same was not replied to by the respondent no.2/Bank.

The title deed, a copy of which has also been annexed to the writ petition, stands in the name of the petitioner. That apart, the petitioner has repaid the loan amount by herself and, hence, there cannot be any impediment to the respondent no. 2/Bank returning the title deed to the petitioner. Moreover, the deceased husband of the petitioner has not staked any claim either to the repayment or to the return of the said deed. Hence, unnecessary formalities ought not to deter the respondent no.2/Bank from returning the title deed to the petitioner.

That apart, mere return of a title deed does not ipso facto indicate that the Bank is conferring any special equity or title in favour of the petitioner. Even otherwise, if the loan amount has been repaid in its entirety by the petitioner, there cannot be any plausible reason for the Bank to return the security by way of title deed.

Hence, instead of directing the Bank to go into an empty formality of considering the petitioner's representation, particularly since the Bank and the Reserve Bank of India choose not to appear despite service, W.P.A. No. 7772 of 2023 is allowed, directing the respondent no.2/Bank to return the title deed of the petitioner to the petitioner, within three weeks from the date of communication of this order to the respondent no. 2, subject to the petitioner having already repaid the entire dues, which was payable by the petitioner and her husband.

It is made clear that nothing in this order shall create any special equity with regard to the property pertaining to which the deed was executed in favour of the petitioner, which the petitioner, otherwise, does not have in law.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)