

16.01.2023
Item No. 28
Ct. No. 25
PG

W.PA. 6884 of 2019
Tapan Majumdar
Vs.

The Union of India & Ors.

Mr. Krishna Kishore Ganguly.....for the petitioner

The petitioner claims to have deposited more than Rs. 19 lakhs for purchasing an immovable property vide e-auction sale. The grievance of the petitioner is that the possession of the said immovable property has not been handed over to the petitioner nor the sale certificate has been registered in favour of the petitioner.

The learned advocate appearing for the petitioner submits that since the borrower has challenged the action of the bank in putting the immovable property in e-auction before the Kolkata Debts Recovery Tribunal-3 in S.A. 453 of 2015, the petitioner is at present not interested in getting the possession of the said immovable property.

The learned advocate submits that a direction be passed upon the Central Bank of India to refund the amount deposited by the petitioner together with interest thereon and as well as costs.

It appears from record that the borrower has filed an application before the Kolkata Debts Recovery Tribunal-3 being S.A. 453 of 2015 challenging the

said e-auction sale of the immovable property. The learned advocate for the petitioner however, submits that in the meantime the SARFAESI application no. 453 of 2015 has been disposed of and the borrower has challenged the order of the tribunal by preferring an application under Article 226/227 of the Constitution of India and this Hon'ble Court has relegated the borrower before the concerned Debts Recovery Appellate Tribunal.

Since the petitioner claims refund of the amount deposited by him for purchasing an immovable property through e-Auction conducted in terms of the SARFAESI Act and a proceeding at the instance of the borrower is pending before the Appellate Tribunal, this Court is not inclined to entertain this writ petition.

Accordingly, W.P.A. 6884 of 2019 is disposed of by giving liberty to the petitioner to approach the appropriate forum in accordance with law.

It is however, made clear that this Court has not entered into the merits of the claims and counter claims of the respective parties and the appropriate forum will be at liberty to decide all points that may be raised by the rival parties.

It is expected that the Appellate Tribunal shall make endeavour to dispose of the application, if

any, filed by the petitioner herein in accordance with law as expeditiously as possible.

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

(Hiranmay Bhattacharyya, J.)