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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 8962 of 2023

Sri Amaresh Purohit
Vs.
The State Bank of India & Ors.

Ms. Barnali Saha,
Mr. Shankha Subhra Mukherjee
...for the petitioner

Ms. Deblina Lahiri,
Mr. Mrinmoy Chatterjee
...for the respondent nos. 1 to 4

Learned counsel appearing for the petitioner submits that the respondent no. 1-Bank, that is, State Bank of India, collaborated in fraudulent action on the part of certain persons. Although the petitioner obtained home loan by depositing his title deed in respect of a particular property in the year 2017, when the petitioner sought to take possession of the property, to his surprise, the petitioner learnt that possession had already been given to a third party. On further enquiry, the petitioner came to know that purported mortgages were created and loans were granted to still others by the bank, in respect of the same property, in the subsequent period after granting loan to the petitioner, apparently on the basis of different documents. It is submitted that such action on the

part of the respondent-bank ought to be deprecated.

Learned counsel appearing for the respondent-bank submits that the bank had no role to play in the impugned actions. Insofar as the bank is concerned, its different branches had issued loans at different points of time, upon obtaining due documents, on search being conducted on each occasion by competent professionals. In fact, one of the loans-in-question, created subsequent to the petitioner's loan, has already been serviced and closed. However, the bank submits that it is ready and willing to extend all cooperation to the petitioner.

Learned counsel for the petitioner submits that, contrary to its submission, the respondent bank and its branches are not extending due cooperation to the petitioner.

The primarily relief sought is a direction on the bank to act according to law and investigate the matter and to take necessary steps towards cancellation of the title deeds. Since the petitioner submits that the petitioner has initiated due civil suit before the competent court of law, taking all the pleas as taken herein, claiming appropriate reliefs therein regarding cancellation of other deeds in respect of the same property, no

Mandamus can be issued by this court for cancellation of the title deeds.

The matter is already sub judice before the competent civil court and is better left to be decided before such forum.

Insofar as the criminal allegations are concerned, since the petitioner alleges fraud having been perpetrated and the petitioner has already instituted criminal proceeding, which are in due course of law, any observation on merits would be uncalled for, since it is beyond the domain of the writ court to decide such question, upon a detailed consideration of evidences furnished by the parties.

Insofar as the disputes raised herein are concerned, the remedy of the petitioner lies before the civil court and the criminal forum.

Accordingly, W.P.A. No. 8962 of 2023 is disposed of with the expectation that the respondent-bank shall extend all cooperation in the investigation and/or adjudication of the civil suit, if so called for by any of the said forums in due course of law.

Nothing in the above order precludes the petitioner from making appropriate application before the concerned civil court for impleading the bank as a party defendant therein.

If so filed, the same shall be decided by the civil court in accordance with 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.)