

07
10.08.2023
mb

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 13670 of 2023
with
IA No. C.A.N. 1 of 2023

Smt. Chandrika Das & Anr.
Vs.
Punjab National Bank & Ors.

Mr. Md. Adil Badr,
Mr. Sobhan Gani,
Mr. Md. Aqib Badr,
Mr. Abdul Kalam Chowdhury,
Mr. Shakti Shivam,
Ms. Nafisa Anwar
...for the petitioners

Mr. Abhishek Banerjee,
Ms. Parna Roy Choudhury,
Mr. Avishek Choudhury
...for the P.N.B.

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

Learned counsel appearing for the petitioners
submits that the writ petition has been filed
primarily on humanitarian grounds, since the
petitioners would be ousted in the event the interim
order takes effect. It is submitted that the
petitioners took a loan, regarding which some
amount has already been repaid. However, the
petitioners seek a statement from the Bank as to
the exact break-up of the amount due from the
petitioners as of today. That apart, the petitioners

are agreeable to pay the entire amount to the Bank but seek some indulgence insofar as instalments are concerned.

Learned counsel appearing for the Bank submits that the petitioners have already availed of such opportunity before the Tribunal. By pointing out to certain portions of the impugned order dated May 22, 2023 passed by the Debts Recovery Tribunal-III, Kolkata, under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, it is argued that the petitioner no. 1 was directed to pay a sum of Rs.10 lacs to the respondent Bank within seven days and second instalment of Rs.12 lacs after one month and remaining amount with interest on third month. It is submitted that none of the said instalments have been paid by the petitioner no. 1.

Heard learned counsel for the parties.

It is seen from the records that the order-in-question was passed by the Debts Recovery Tribunal on May 22, 2023. We have crossed three months thereafter. However, it appears that the petitioners did not avail of the opportunity granted to the petitioners by the Tribunal by depositing a sum of Rs.10 lacs within seven days from the order

and/or the second instalment or third instalments within the time stipulated therein.

The time has passed for the petitioners to be given further instalments, since the matter is already at the ripe stage of handing over possession to the creditor. If the petitioners had any grievance, the same ought to have been ventilated before the appropriate forum.

The submission of the petitioners, that the petitioners, instead of preferring an appeal against the same as come up to this Court to save time, cannot be accepted, in view of the previous conduct of the petitioners as revealed from the records.

Having failed before the Tribunal and having not availed of the opportunity of instalments granted by the Tribunal, at this stage, no further relief can be granted to the petitioners.

Accordingly, W.P.A. No. 13670 of 2023 is dismissed without, however, any order as to costs.

In view of dismissal of the main writ petition, IA No. C.A.N. 1 of 2023 is also disposed of accordingly.

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.)