

Item No. 16
23.08.2023
Court. No. 19
GB

C.O. 2524 of 2023

Rinku Agarwal Chiraneewala
Vs.
Karur Vysya Bank Limited & Ors.

*Mr. Rupak Ghose,
Mr. Anurudhya Dutta*

...for the Petitioner.

The order impugned is an order passed by the learned Debts Recovery Tribunal (DRT-1), Kolkata in IA 1216 of 2023. The IA was filed in connection with OA 35 of 2020. By the order impugned, the learned Tribunal directed the intervener to serve a copy of the IA upon the applicant/bank. The bank was granted liberty to file objection. The defendants were also directed to file their written statement within four weeks. Further interim order was passed, restraining the defendants from dealing with or disposing of such secured assets and properties. Relevant paragraph is quoted below:-

“The Defendants are restrained from dealing with or disposing of such assets and properties disclosed as per para 3A Row (ii) page 3 to 5 and Schedule – “XX” & “YY” of the property which also appear at page 470 to 472 of the OA, pending the hearing and disposal of the application for attachment of properties. The Defendants are further directed to disclose particulars of properties or assets other than properties and assets specified by the applicant in para 3A Row (ii) page 3 to 5 and Schedule – “XX” & “YY” of the property which also appear at page 470 to 472 of the OA, by way of affidavit within a period of 30 days with the Registrar with copy to the applicant.

The matter be listed before the Ld. Registrar of this Tribunal on 16/08/2023 for filing of compliance and verification of evidence with the original.”

Mr. Ghose, learned advocate appearing on behalf of the applicant in IA 1216 of 2023 submits that the properties involved in the original application were also subject matters of a partition suit. The borrower was a defendant in the said suit. If the OA proceeds and orders are passed in respect of the properties in which the petitioner/applicant has share, the situation will become irreversible. It is further contended that the properties involved in the partition suit are in the custody of a receiver, meaning thereby, that they were in the custody of the court. There were also subsisting orders of injunction.

According to Mr. Ghose, these aspects ought to have been looked into by the learned tribunal before passing the order impugned and before proceeding with the original application.

This Court finds that the learned tribunal directed the applicant to serve a copy of the said application upon the applicant/bank and granted the bank liberty to file a written objection to the said application. In the meantime, the property has been protected and the defendant/borrower has been restrained from dealing with the property.

Thus, the apprehension of Mr. Ghose, at this stage, is not well-founded. The property in respect of which the protection was sought for by the intervener, has been sufficiently protected. It also does not appear to the Court that the learned tribunal had decided not to hear out the application. As the application was filed during the pendency

of the OA, direction for service upon the bank and inviting a response from the bank, was the proper procedure.

The applicant/petitioner shall be at liberty to approach the tribunal for expeditious disposal of the said application.

The prayer for stay of the original proceedings till disposal of the title suit, cannot be granted at the ad interim stage, without hearing all the parties.

Accordingly, the revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)