AD-08
Ct No.09
30.08.2023
TN

WPA No. 19003 of 2023

Mrs. Puspita Majumder
Vs.
The Andhra Bank presently known as Union Bank of India and others

Mr. Kaunish Chakraborty,
Mr. Debasish Kundu,
Mr. K.S. Haque,
Mr. Aloke Roy

.... for the petitioner

Ms. Usha Doshi

.... for the respondent no.1

Mr. Indradeep Basu

.... for the SEBI

1. The writ petition has been filed by the petitioner, who purportedly purchased a property by way of auction sale from the Andhra Bank, which has since merged with the Union Bank of India in the year 2021. However, despite all formalities having been concluded, the sale certificate was not handed over to the petitioner. It is argued that the petitioner was busy for a number of years due to pendency of as many as 95 cases against her husband, running between courts, and could not collect the sale certificate in due time. However, subsequently giving sufficient explanation, the petitioner wrote on June 26, 2020 to the Bank

asking for furnishing of documents relating to such purchase. The Bank has not been able to produce the same as yet.

2. In the meantime, the petitioner learnt that the Security and Exchange Board of India (SEBI) has put the property, which was purchased by the petitioner, to sale. Accordingly, the petitioner argues that the said property ought not to be sold by the SEBI in its e-auction, since the same belongs to the petitioner exclusively.

3. Learned counsel for the SEBI submits that for abundant caution, although there was no order of injunction by this court, the SEBI has not put the property-in-dispute in e-auction but has conducted e-auction with regard to the other properties.

4. However, it is argued that the petitioner has not yet produced any conclusive proof of title of the petitioner.

5. Learned counsel for the Bank submits that the petitioner has failed to furnish any valid reason for approaching the Bank after as many as seven long years subsequent to the Bank itself inviting the petitioner to collect all necessary papers. Having not done so, it is argued that the petitioner cannot now maintain any action

against the Bank. However, it is also clarified that the Bank is trying its level best to trace out the documents-in-question. Since the Bank does not have any provision to maintain any records of purchasers but only maintains records regarding their borrowers, there was no way for the Bank to trace out the petitioner's documents, if available, expeditiously.

6. The Bank, however, submits that it is willing to keep on its search for tracing out any such document, if available in its godowns.

7. Heard learned counsel for the parties.

8. It is seen from the order sheet that on previous occasions also, similar arguments were advanced. The Bank was given some time to trace out the document, if possible. It was recorded in the order dated August 11, 2023 that the Bank undertook through counsel that it would make all endeavour to furnish the sale deed/sale certificate or other documents pertaining to the sale in favour of the petitioner by the Andhra Bank, for which the matter had been adjourned and an expectation was expressed that the Bank shall hand over all papers regarding the transfer of title to the petitioner.

9. However, the Bank submits that as of today the documents were not traceable.

10. On a *prima facie* perusal of the annexures to the writ petition, the Bank cannot be saddled with much liability or can be held to be guilty of patent inaction, since the Andhra Bank itself had written to the petitioner as long back as on July 04, 2013, asking the petitioner to come to the concerned Branch, that is, the Kaikhali Branch of the Andhra Bank immediately and collect necessary papers relating to the flats purchased by the petitioner, else, it was mentioned, the Bank would not be held liable for further legal complication.

11. The next communication between the Bank and the petitioner took place only on June 26, 2020, that is, about seven years thereafter, from the end of the petitioner seeking such documents.

12. Hence, there is nothing on record to hold that the Bank is liable to compensate the petitioner at all. However, since the Bank has taken a fair stand that it will continue its search for a reasonable period, the matter need not be interfered with on such score.

13. However, as of today, the petitioner does not have any sale certificate or other document to prove

even *prima facie* that the petitioner has title to the property sought to be sold by e-auction by the SEBI.

14. Hence, there is no scope of granting any relief in the present writ petition.

15. Accordingly, WPA No. 19003 of 2023 is disposed of by directing the respondent no.5/SEBI to hold its hands regarding transfer of the property-in-dispute for a period of four weeks from date.

16. In the event the petitioner can produce any sale certificate or other documents during that period, the SEBI shall consider the same and come to the conclusion as to whether it should proceed with the sale further. In the event, however, no such document is produced by the petitioner, then there will be no impediment for the SEBI to proceed with the sale of the property-in-dispute.

17. The respondent-Bank, that is, the Union Bank of India shall, to the best of its efforts, attempt to trace out the documents including the sale certificate, if any, which may prove the title of the petitioner. However, in the event the Bank is unable to do so, it will be open to the petitioner to take appropriate action in that regard.

18. There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)