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WPO/2660/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

DILIP KUMAR BASAK
VS
CANARA BANK

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 24st July, 2023.

Appearance:

Mr. Ganesh N. Jajodia, Adv.

Mr. Rohit Banerjee, Adv.

Ms. Nitu Singh, Adv.

...for the petitioner.

Ms. Aparajita Ghosh, Adv.

Ms. Aditi Roy, Adv.

...for the respondent.

The Court:-Learned counsel for the petitioner submits that the writ petition had originally been filed for several reliefs, including the return of the title deed of the petitioner lying with the bank as well as issuance of No Dues Certificate upon the bank.

Learned counsel submits that, during pendency of the writ petition, pursuant to the order of this court, the designated Special Court, CBI, directed the documents of the petitioner to be returned, on the finding that the petitioner's documents were not necessary for any further inquiry. It is further submitted that it was also recorded by the said court that the petitioner has

repaid the loan of the bank. However, as regards the observation of the respondent bank in the impugned order dated August 20, 2022, to the effect that the matter was under investigation against the petitioner, it is submitted that the same cannot sustain in view of the observation of the CBI Court. However, in his usual fairness, learned counsel for the petitioner submits that a proceeding has been initiated by the bank before the Debts Recovery Tribunal (DRT) against the petitioner, for which the prayer for No dues certificate would definitely be subject to the outcome of the same.

Learned Counsel for the Bank submits that the bank is not bound by the observation of the CBI Court, that the petitioner has repaid the loan of the bank. It is submitted that the bank's claim against the petitioner remains sub judice before the DRT.

A perusal of the order passed by the Special Court, CBI on July 6, 2023, a copy of which is handed over by learned counsel for the petitioner, clearly shows that the main relief sought in the writ petition is with regard to the return of the title deeds of the petitioner. The CBI Court has directed such documents to be returned to the petitioner. A copy of the order dated July 6, 2023 be kept with the record.

The prayer for grant of no dues certificate, of course, is subject to the outcome of the pending DRT proceeding.

Be that as it may, since the writ petition has lost its force in view of the return of the petitioner's deed(s), and the other relief regarding issuance of No due certificate cannot be decided by this court in view of the pending challenge of

the bank before the DRT, no further order is required to be passed in the writ petition. Accordingly, WPO/2660/2022 is disposed of as infructuous.

It is made clear, however, that the points urged in the present writ petition with regard to liability of the petitioner to the bank, including the question of issuance of 'no dues certificate' by the bank shall remain open to be urged before the DRT in the pending proceedings and, if so urged, the Tribunal shall decide such question without being influenced on merits by any of the observations made in this order.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

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