

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.2919 of 2023

Shri Devkaran S/o Ashokkumar Navik

Versus

Hon'ble Debts Recovery Tribunal, Nagpur and others

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri K.K. Sachdev, Counsel for Petitioner.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 4th MAY, 2023.

1. Considering the short issue involved, service of notice on the respondent Nos.3 to 5 is dispensed with. The respondent No.1 is represented by the learned Deputy Solicitor General of India. Shri Manogga Singh, learned counsel, waives service of notice for the respondent No.2- Bank.

2. The petitioner is an auction purchaser of the property mortgaged by the respondent Nos.3 to 5, while availing the credit facility from the respondent No.2- Bank. The Bank initiated the proceedings in the form of Original Application No.392 of 2018 for recovery of its dues. Pursuant to the auction held, the petitioner successfully purchased the mortgaged property and the sale certificate has also been issued in his favour on 24-7-2020. The petitioner sought return of the original documents that were filed in the proceedings before the Debts Recovery Tribunal. The Bank did not oppose the said request. The Bank moved an application seeking return of the original documents with a view to supply the same to the auction purchaser. The said application has, however, been rejected by the Tribunal on 21-9-2022 by observing that the certified copies of the documents that were filed on 15-9-2022 by the Bank should be returned. In this backdrop, the auction purchaser has challenged the order dated 21-9-2022.

3. Heard the learned counsel for the petitioner and the respondent No.2. Reference is made to the decision of the Hon'ble Supreme Court in *Tripower Enterprises (Private) Limited Vs. State Bank of India and others*, reported in

AIR Online 2020 SC 580, to support the prayer for return of original documents. We find that the petitioner being the auction purchaser and the certified copies of the documents being available on record, no useful purpose would be served by retaining the original documents with the Debts Recovery Tribunal. The same can be directed to be handed over to the Bank to enable it to return the same to the auction purchaser with the condition that the original documents shall be produced as and when required by the Tribunal.

4. Accordingly, the order dated 21-9-2022 is set aside to the extent it directs return of the certified copies of the original documents filed by the Bank. Instead the original documents filed by the Bank on 15-9-2022 shall be returned to it. The certified copies of such documents shall be retained on the record of the proceedings, being Original Application No.392 of 2018. The Bank is free to give those documents to the petitioner- auction purchaser. The petitioner shall accept the said documents on the condition that the same shall be produced as and when required by the Tribunal.

5. With these observations, the writ petition is disposed of. No costs.

(M.W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)

LANJEWAR