

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

251

**CWP-22154-2021 (O&M).
Date of Decision: 13.03.2023.**

KALYANI (INDIA) PVT LTD.

.. Petitioner

Versus

HDFC BANK AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. R.Kartikeya, Advocate,
for the petitioner.

Mr. Nitin Thatai, Advocate,
for respondent No.1.

Mr. B.S. Aulakh, Advocate,
for respondent No.2.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition had been filed for seeking issuance of an appropriate writ in the nature of Mandamus directing respondent No.1 to not provide original title deeds of the property hypothecated by the petitioner and bearing Plot No.350, Block-C, Government School Teachers Cooperative Housing Building Society Limited also known as Saraswati Vihar, in Pitampura, Delhi to respondent No.2 as well as to provide certified/coloured copies thereof and further to direct respondent No.1 not to insist upon additional security as a replacement thereof.

Learned counsel for the petitioner contends that on account of the intervening circumstances, the petitioner is ready and willing to clear the entire debt qua the property in question and that the bank should issue

‘No Objection Certificate’ in respect to the outstanding amount after its deposit.

Learned counsel for the respondent-HDFC bank contends that in the event of the petitioner-borrower depositing the entire outstanding amount, the Bank has no objection regarding issuance of NOC qua the property. It is contended that the title documents, however, cannot be released in favour of the petitioner since demand thereof has been raised by the respondent No.2-Crime Branch of the Delhi Police-Investigating Agency.

Learned counsel for the petitioner contends that he has no objection to the release of documents, as may be so required by the Investigating Agency, subject to his right to move an appropriate application before the Competent Authority/Illaqu Magistrate against any proposed action.

Learned counsel for respondent No.2-Investigating agency submits that he has no instructions in this regard.

It is, however, pointed out that as per the status report filed on behalf of respondent No.2, they have sought the following documents:-

“7. To dig out the truth, notices were sent to Indian Overseas Bank, Rajendera Place, New Delhi. As per the reply received from Indian Overseas Bank the following documents were provided by the DVP Exim in original at the time of collateral security. Which were further handed over to Sh. Naresh Kumar, Director Kalyani India Pvt., as he purchased this property in auction and who kept the original documents as collateral with HDFC Bank, Chandigarh. As per reply of Indian Overseas Bank and HDFC Chandigarh the following documents are with HDFC Bank, Chandigarh:-

- (a) Original Share of Certificate No. 111/75*
- (b) Original Possession letter dated 09.05.1975*
- (c) Original perpetual lease deed dated 27.06.1986 (cancelled)*
- (d) Original mutation letter dated 12.10.1996*
- (e) Original GPA dated 07.10.1994*
- (f) Original GPA dated 14.05.1996*
- (g) Original sale agreement/SPA/GPa dated 08.07.2009*
- (h) Original NOC dated 22.09.2009*
- (i) Original conveyance deed dated 18.02.2010*
- (j) Original sale deed dated 20.04.2011.”*

Since the counsel for the petitioner contends that he has no objection to the aforesaid documents, as mentioned in para No.7 of the status report, to be released in favour of respondent No.2-Crime Branch, Investigating Agency/Delhi Police, there is no reason as to how the investigation of the case would be prejudiced in any manner by a mere issuance of the NOC in favour of the petitioner upon clearing the entire outstanding dues qua the property in question.

I find that the aforesaid prayer made by the petitioner is justified. Accordingly, the present petition is disposed of with liberty to the petitioner to clear its outstanding loan against the property in question. In case the petitioner deposits the entire outstanding amount, the NOC qua the loan may be issued by the respondent No.1-HDFC Bank. The documents as have been mentioned in para No.7 of the status report filed on behalf of the respondent No.2-Investigating Agency/Crime Branch, Sector-14, Paschim Vihar, Rohini, New Delhi, be released in favour of the Investigating Agency and/or any other person so authorized by it under valid certification. Certified copies of the aforesaid documents be handed over to

the petitioner, on taking possession of the said documents along with any such other document as may be required by the Investigating Agency.

The petitioner shall be at liberty to move an appropriate application before the Competent Authority/Illaq Magistrate for release of the documents seized by the respondent Investigating Agency.

Disposed of accordingly.

Pending misc. application, if any, shall also stand disposed of accordingly.

March 13, 2023
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No