15.07.2024
Court No.09
Item no.04
CP

WPA No. 5458 of 2023

Mousumi Biswas & Anr.
Vs.
The State Bank of India & Anr.

Mr. Mukteswar Maity
Ms. Monika Sarkar
....for the petitioners.

Ms. Deblina Lahiri
Mr. Mrinmoy Chatterjee

....for the respondent bank.

1. The petitioners are the heirs of the borrower. The petitioners approached the State Bank of India for waiver of the outstanding dues amounting to Rs.7,30,154.72/-. The authority refused. The petitioners moved the ombudsman. The ombudsman by an order dated September 9, 2022 refused to accept such request of the petitioners.
2. It is submitted that the authority failed to take into consideration that the home loan insurance coverage of the borrower which came along with sanction of the loan as an additional facility, should have been adjusted against the said outstanding dues, thereby, relieving the heirs of the borrower from any liability. It is submitted that Rs.588/- as premium had also been deducted for property

insurance. The statement of the bank at page 47 of the writ petition, will prove the same.

3. Learned advocate for the bank submits that the policy of the State Bank was to allow home loan along with a further facility of home loan insurance cover. The funding of home loan insurance, covered the entire loan till the lifetime of the borrower. In case the borrower expired before the loan period was over, the amount payable to the insured would be adjusted against the outstanding dues. On such issue, reference is made to page 38 of the writ petition. The learned advocate has also submitted that the communication from the Branch Manager of the State Bank of India dated March 4, 2020, clearly stated that for processing the insurance the requisite application form should be filled in. The letter is quoted below:-

> "We are pleased to inform you we have sanctioned a Home Loan of Rs. 10,01,190/ on the basis of your application dated 10/02/2020 with the undermentioned break up-
>
> Home Loan -Rs. 9,84,500/-
>
> Funding of home loan insurance cover (If requested)-Rs. 16,519/-
>
> Total Rs. 10,01,019/-(Rupees ten lakh one thousand and nineteen only)
>
> 2. In this backdrop we have debited your loan account no 39183142028 on 03.03.2020 for Rs. 10,01,019/- and subsequently credited the

> same in your SB account no 37287338889 on the same date.
>
> 3. From your said SB account 37287338889 Rs. 9,84,500/- was paid to your developer as per your mandate/application by issuing draft.
>
> 4.For further processing of your insurance we are attaching requisite application form with this letter
>
> You are requested to submit duly filled up form at our Branch within 15 days from the date this letter to enable us to process the insurance formalities."

4. The premium for the home loan insurance cover was mentioned as Rs.16,519/- . Clause 10 of the arrangement also talks about insurance against fire, flood etc. and the premium deducted was against such insurance which was a mandatory part of any agreement. Rs.588/- was deducted against such insurance and not as premium for the home loan insurance cover.
5. Another letter dated March 9, 2020 has been relied upon which indicates that the borrower had failed to file the duly filled in form for insurance coverage and the bank again requested the borrower to submit the form. Thus, the question of adjusting the outstanding dues against the home loan insurance coverage would not arise. According to the bank, as there was no insurance policy in the form of home loan coverage in the name

of the borrower, the outstanding dues could not be waived.

6. First of all, disputed questions of fact have arisen. The heirs of the deceased have not been able to produce the insurance policy which would indicate that such insurance coverage was availed of by the borrower. It also appears from the statement of accounts that the balance of the sanctioned amount which was lying in the account of the borrower after remittance to the developer, had been withdrawn.

7. Under such circumstances, the writ petition is disposed of without any orders. The documents filed by the bank are taken on record. There shall be no order as to costs.

8. All parties are to act on the basis of server copy of this order.

(Shampa Sarkar, J.)