Sl. No. 2

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

M.A.T. 494 of 2024
(CAN 2 of 2024)

Dilip Kumar Rabidas
-Vs-
The State of West Bengal & Ors.

For the Appellant	**:**	Mr. Aniruddha Chattrerjee, Adv. Md. Raziuddin, Adv.
For the Respondent Nos. 2 & 3	**:**	Mr. Ankit Sureka, Adv. Mr. Partha Sarathi Pal, Adv.
For the Respondent Nos. 4 & 5	**:**	Mr. Malay Kumar Roy, Adv.
For the State	**:**	Mr. Srijan Nayak, Adv. Ms. Rituparna Maitra, Adv.
Heard on	**:**	10.06.2024, 18.06.2024 & 24.06.2024
Judgment on	**:**	24.06.2024

JoymalyaBagchi, J. :-

1. Respondent-Rampurhat Co-operative Agriculture and Rural Development Bank Limited had advanced a loan on a joint application

made by the appellant and his son, respondent no. 8. Appellant was shown as a beneficiary in the sanction letter issued by the Bank. Appellant's house was mortgaged to the Bank as collateral security. As the loan remained unpaid,the mortgaged property was sold by the respondent-Bank to the auction purchaser i.e. respondent no.8 and the property was handed over to the latter.

2. At this juncture, alleging that he had been duped to sign documents by his son to obtain the loan and the Bank had forcibly entered the premises, appellant approached the Hon'ble Single Judge who dismissed the writ petition.

3. Learned Advocate for the appellant contends Rule 191(i) of the West Bengal Co-operative Societies Rules, 2011 empowers the Board to set aside a sale. It is strongly contended that the appellant is the owner of the mortgaged property and the mortgage was fraudulently created in favour of the Bank. A civil suit has been instituted.

4. I have considered these submissions. A mortgage had been created in favour of the Bank with regard to the property.Appellant and his son jointly applied for the loan. Belatedly he contends he was duped by his son to sign the documents. In view of the relation between the parties it is highly doubtful whether the appellant was unaware of the transaction.

5. Under such circumstances, sale of mortgaged property by the Bank for realising its outstanding loan does not call for judicial review.

6. Hence, I do not find any merit in the appeal and the same is accordingly, dismissed.

7. In view of dismissal of the appeal, connected application being CAN 2 of 2024 is also disposed of.

8. It is open to the parties to canvass their claims before the civil court in accordance with law, if so advised.

9. There shall be no order as to costs.

10. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.) **(Joymalya Bagchi, J.)**

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