

26th April,
2024
(AK)
28

W.P.A 8868 of 2023
IA No: CAN 1 of 2024

Suchismista Sengupta
Vs.
Authorised Officer, Punjab National Bank and others

Mr. Gunjan Kumar Singh
Mr. Kaushal Kumar
Ms. Anita Das

...for the petitioner.

Dr. Chapales Bandyopadhyay
Ms. Anandamayee Dutta
Ms. Atmaja Bandyopadhyay
Ms. Gargy Basu

...for the respondent-Bank.

In Re: CAN 1 of 2024

1. CAN 1 of 2024 is allowed in view of the petitioner having successfully impressed upon this court regarding the urgency of the matter since the petitioner is a house wife and is suffering long for not getting possession of an auction purchased property from the Bank.
2. There will be no order as to costs.

In Re: WPA 8868 of 2023

3. The writ petition itself is taken up for hearing.
4. Affidavits-in-opposition and reply filed in court today be kept on record.

5. The grievance of the petitioner is that the petitioner purchased a property from the respondent-Bank in an auction sale.
6. Sale certificate was also issued in favour of the petitioner.
7. However, although the purchase was made under the impression that the possession would be handed over immediately to the petitioner, till date the possession has not yet been handed over to the petitioner.
8. It is argued that, as such, the petitioner seeks a refund of the amount of money deposited by the petitioner with the Bank.
9. Learned counsel appearing for the respondent-Bank submits that the Bank tried its level best to hand over possession to the petitioner but due to procrastination by the police officials, such possession could not be given to the petitioner till date. As such, there is no negligence on the part of the Bank.
10. Learned counsel appearing for the respondent-Bank places reliance on the annexure at page-18 of the affidavit-in-opposition of the Bank, which is the printout of an e-mail issued from the end of the Officer-in-Charge of the Manicktala Police Station to the Chief Manager, the Authorized Officer, Punjab National Bank whereby the police informed

that due to unavoidable circumstances the physical possession of secured assets has been postponed.

11. Thus, it is palpable that the cause of the woes of the petitioner is not the Bank but the police authorities.
12. In any event, the refund prayed for by the petitioner cannot be granted by this court as the execution of the sale certificate is conclusive proof that title has passed in favour of the petitioner, which cannot set aside by a writ court.
13. The remedy of the petitioner on such count could at best be ventilated before a competent civil court, before which the petitioner is at liberty to approach for cancellation of the sale certificate and/or for damages against the Bank and/or the police authorities.
14. Be that as it may, although the relief of refund cannot be granted by the writ court to the petitioner, the court expects that the Officer-in-Charge of the Manicktala Police Station shall take immediate steps for handing over possession of the secured asset in favour of Authorised Officer of the Bank in order to ensure that the Authorized Officer can, in turn, hand over the same to the petitioner.
15. Accordingly, WPA 8868 of 2023 is disposed of by granting liberty to the petitioner to approach the competent civil court for cancellation of the sale

certificate and/or seeking damages against the Bank, the police authorities and/or any other person who in the perception of the petitioner may be guilty for the delay in handing over possession in favour of the petitioner.

16. Simultaneously, it is expected that the Officer-in-Charge of the Manicktala Police Station shall immediately hand over possession of the secured assets in favour of the Authorized Officer of the Bank, subject of course to the Authorized Officer having complied with all formalities in that regard regarding payment of costs.
17. Such possession shall be handed over preferably within a fortnight from the date of communication of this order to the Officer-in-Charge of the Manicktala Police Station, who shall act on a server copy of this order without insisting upon prior production of a certified copy for the purpose of compliance.
18. Upon such possession being handed over to the Authorised Officer of the Bank, the latter shall, within a further fortnight from that date, hand over the possession in favour of the petitioner.
19. There will be no order as to costs.

20. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)