D/L.11.
May 2, 2024.
MNS.

WPA No. 11890 of 2024

Nata Krishna Parua
Vs.
The Reserve Bank of India and others

Mr. Somnath Roy Chowdhury,
Ms. Arpita Chowdhury

… for the petitioner.

Mr. Paritosh Sinha,
Ms. Soni Ojha,
Ms. Sambrita B. Chatterjee,
Ms. Sonia Nandy

…for the ICICI Bank Limited.

1. Affidavit-of-service filed in Court today be kept on record.
2. The facts of the case are that the petitioner and the bank entered into a settlement before the Debts Recovery Tribunal. The Tribunal, by an order dated July 27, 2023, recorded such settlement and directed the ICICI Bank Limited (in short "Bank") to return the title deeds to the defendants within a period of three weeks.
3. The petitioner argues that such documents have not been returned to the petitioner till date. The petitioner seeks to return the documents and compensation for the delay occasioned in returning those documents.

4. Learned counsel for the petitioner also places reliance on a Circular dated September 13, 2023 issued by the Reserve Bank of India (RBI) to argue that the Bank is liable to pay compensation at the rate of Rs.5,000/- for each day of delay.
5. Learned counsel for the Bank seeks a further twenty-one days' time to hand over the documents since the documents, according to learned counsel for the Bank, are lying with a third party entity, who was entrusted by the Bank to have the custody of the documents in terms of the banking norms. Such third party-entity is situated in Mumbai and, as such, the said above time is required.
6. It is argued that the RBI Circular cited by the petitioner is not applicable in view of Clause 9 of the same stipulating that the directions therein shall be applicable to all cases where release of original movable / immovable property documents falls due on or after December 1, 2023.
7. A perusal of the Circular relied on by the petitioner substantiates the claim of the Bank inasmuch as the Circular is applicable only when the return of documents falls due on or after December 1, 2023 whereas, In the present case, the date when the return fell

due was July 27, 2023, when the Debts Recovery Tribunal passed the direction for return of those.

8. Insofar as the request of the Bank for twenty-one days' time is concerned, for all practical purposes, the court is required to be pragmatic. A direction which cannot be complied with *ab initio* need not be passed.

9. Keeping in view of such factor, time should be given to the Bank till May 24, 2024 to return the documents to the petitioner.

10. Insofar as the compensation claimed by the petitioner is concerned, as the said RBI Circular is not applicable, the petitioner has to establish such claim before a competent civil court and that the petitioner has suffered loss for non-return of the documents, in terms of the pleadings in paragraph 23 of the writ petitioner or otherwise.

11. That apart, the quantum of such damages, if the petitioner is so entitled to, is also to be substantiated before such court. It is beyond the domain of the writ court to enter into such factual disputes requiring evidence to be taken.

12. Accordingly, the petitioner shall be entitled to approach the civil court for claim of damages against the Bank.

13. In the light of the above observations, WPA No. 11890 of 2024 is disposed of by directing the Bank to return all the title deeds of the petitioner lying with the Bank in connection with the loan taken but was subsequently settled between the petitioner and the Bank, on or before May 24, 2024.
14. Prior to the expiry of the said period, the Bank shall communicate to the petitioner in writing as to the exact date and time when the petitioner shall collect the documents from the Bank.
15. Insofar as the claim of the petitioner of compensation is concerned, it will be open to the petitioner to approach the competent civil court claiming compensation / damages, if suffered by the petitioner due to the delay occasioned by the Bank.
16. If so approached, the Civil Court shall decide such issue in accordance with law without being influenced in any manner on merits by any of the observations made herein.
17. There will be no order as to costs.
18. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)