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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 11881 of 2024

Uma Rani Parua
Vs.
Reserve Bank of India & Ors.

with
W.P.A. No. 11890 of 2024

With
W.P.A. No. 11898 of 2024

Mr. Somnath Roy Chowdhury,
Ms. Arpita Chowdhury
...for the petitioners

Mr. Paritosh Sinha,
Ms. Soni Ojha,
Ms. Sambrita B. Chatterjee,
Ms. Sonia Nandy
...for the respondent nos. 4 to 7

1. The three writ petitions are segregated and are being taken up for hearing separately in view of the factual circumstances in each of the cases differing in certain respects.

2. W.P.A. No. 11881 of 2024 is taken up first for hearing.

3. Learned counsel for the petitioner contends that the petitioner is entitled to get back the title deeds which were furnished as security of the loan taken by the petitioner from the respondent-Bank

in view of settlement having been arrived at between the parties.

4. Learned counsel places reliance on the order dated July 13, 2023 passed by the Presiding Officer, Debt Recovery Tribunal-III, in charge of Debts Recovery Tribunal I, where it was observed that the Registrar was directed to see if any original document lies with the OA, to return to the applicant within a period of three weeks from the date of the order to the authorized officer or to the authorized counsel of the applicant bank who may return to the defendant.

5. Learned counsel argues that the very expression "applicant bank" indicates that the Bank ought to have applied for return of such documents. In any event, learned counsel for the petitioner argues that it is the established practice that unless an application is filed by the concerned party, the documents are not returned automatically.

6. Learned counsel for the petitioner also places reliance on a Circular dated September 13, 2023 issued by the Reserve Bank of India (RBI) pertaining to release of movable/immovable property documents on repayment/settlement of personal loans.

7. It is stipulated therein that the Regulated Entities (REs) shall be duty-bound to release all original movable/immovable property documents and remove charges registered with any registry within a period of 30days after full repayment/settlement of the loan account.

8. It is argued that as per Clause 6 thereof, in case of delay in releasing of such documents or failing to file charge satisfaction form with relevant registry beyond 30 days after full repayment/settlement of loan, the RE shall communicate to the borrower reasons for such delay. In case where the delay is attributable to the RE, it shall compensate the borrower at the rate of Rs.5,000/- for each day of delay.

9. Thus, it is argued that in view of the palpable delay on the part of Bank in applying for the documents and handing over the documents to the petitioner, the Bank should pay compensation to the petitioner/borrower at the rate of Rs.5,000/- for each day of delay from the order of the tribunal.

10. Learned counsel for the Bank submits that the Bank made its best endeavour, from after the passing of the order of the tribunal dated July 13, 2023, to take back the documents which were deposited with the tribunal for the purpose of returning those to the petitioner.

11. Learned counsel for the Bank hands over a photocopy of the counterpart of the application indicating that the first such application was made by the Bank on November 06, 2023 with the tribunal for return of all the original documents submitted at the time of filing evidence.

12. However, the Debts Recovery Tribunal sat tight over the matter and, it is contended, the documents were only returned yesterday to the Bank, that too, after the Bank having insisted that this Court has passed certain directions in connection with the writ petition.

13. It is, thus, argued that the Bank is in no way responsible for the delay occasioned in return of the documents to the petitioner and the petitioner is at liberty to collect those documents from the Bank as and when it suits the petitioner.

14. Learned counsel for the Bank next argues that the RBI Circular dated September 13, 2023 is not applicable to the present case, since Clause 9 thereof provides that the directions contained therein shall be applicable to all cases where release of original movable/immovable property documents falls due on or after December 1, 2023.

15. In the present case, the return of documents fell due on and from July 13, 2023, the date of passing of such order by the DRT and, as such, the

parties to the present writ petition fall outside the purview of such Circular.

16. Upon hearing learned counsel for the parties, two features are evident in the matter. First, the directions contained in the order dated July 13, 2023 were on the Registrar of the concerned DRT to return to the applicant-Bank, within the period of three weeks from the date of the order, through its authorised officer or authorised counsel, the documents which have been filed before such authority.

17. Thus, it cannot be said that any liability was cast at that juncture on the Bank for making any application whatsoever.

18. I find substance in the arguments of the Bank that the Bank, upon waiting for a reasonable time, applied for return of the documents for the purpose of ensuring that those are handed over to the petitioner, on November 6, 2023 for the first time and, thereafter, again on April 17, 2024.

19. Thus, it cannot be said beyond doubt that the bank was at fault in not returning the documents in time to the petitioner. More importantly, there is substance in the contention of the Bank that the Circular dated September 13, 2023, relied on by the petitioner in order to seek quantification of the damages, does not apply to the present case.

Clause 9 thereof clearly provides that the direction contained therein shall be applicable to cases only where the property documents *fall due* on or after December 1, 2023. In the present case, clearly, the documents fell due on and from the date of the order of the tribunal directing return of those.

20. The said order was dated July 13, 2023. In the said order itself, the settlement was also recorded and, as such, it cannot be said that the date on which the documents fell due could be attributed to some future date.

21. In fact, the Bank had already applied for the first time for return of the documents on November 06, 2023, which was also prior to the date of commencement of operation of the Circular, that is, December 01, 2023.

22. In any event, it cannot be said that the Circular is applicable to the parties in the instant case in order to come to a specific finding as to the quantum of damages as well.

23. Hence, on both such counts, this Court is of the opinion that the prayer of the petitioner for damages for delay in handing over the documents by the Bank to the petitioner cannot be granted.

24. However, since the Bank has submitted before this Court that the documents are now ready for being returned to the petitioner, the petitioner shall

be at liberty to approach the Bank, during office hours of the respondent-bank, to get back the documents, which are now lying with the Bank.

25. Accordingly, W.P.A. No. 11881 of 2024 is disposed of in the light of the above observations by granting liberty to the petitioner to approach the concerned Bank during the office hours of the Bank for return of the petitioner's title deeds.

26. If so approached, the Bank shall return the title deeds to the petitioner.

27. There will be no order as to costs.

28. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)