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07.05.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 12621 of 2024

Sk. Ismail
Vs.
The State Bank of India & Ors.

Mr. Kuntal Ray,
Mr. Samsul Arefin
...for the petitioner

Ms. Rajashri Bhattacharya
...for the State Bank of India

1. Affidavit-of-service filed in Court today be kept on record.
2. Although the District Magistrate has not yet been served, in view of the order proposed, no further service is directed.
3. The grievance of the petitioner is that allegedly the respondent-Bank, pursuant to an order of the District Magistrate, tried to oust the petitioner from the subject-property. However, the petitioner does not have a copy of the order of the District Magistrate to enable the petitioner to challenge the same.
4. The problem can be resolved if the respondent-Bank, who is represented in court today, is directed to serve a copy of the order of the District

Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 to the learned advocate for the petitioner, as a representative of the petitioner, during the course of the day.

5. The petitioner also relies on a purported “Karza Mukti Certificate”, issued in respect of a purported Scheme floated by the Prime Minister’s Office, which, according to the petitioner, absolves the petitioner of the liability to make the payment.

6. However, it is always open for the petitioner to take such plea and any other defence in a proper application under Section 17 of the 2002 Act before the concerned Debts Recovery Tribunal. The writ court cannot enter into the said disputed factual issue at all.

7. In view of the above observations, W.P.A. No. 12621 of 2024 is disposed of by directing the respondent-Bank to hand over a copy of the order passed under Section 14 of the 2002 Act to the learned advocate of the petitioner on behalf of the petitioner during the course of the day.

8. It is made clear that the issues raised by the petitioner otherwise on merits are not gone into by this Court and it will be open to the petitioner to take out an appropriate challenge under Section 17

of the 2002 Act before the concerned Tribunal having jurisdiction to decide such applications.

9. There will be no order as to costs.

10. 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.)