

13.09.2024
Item No.3, DL
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 2064 of 2023

I.A. No. CAN 1 of 2023

CAN 2 of 2023

CAN 3 of 2024

M/s. Bajrang Lal Agarwala & Anr.

-Vs-

Punjab National Bank & Ors.

Mr. Swatarup Banerjee,

Mr. Prantik Garai,

Mr. Kumarjit Das,

Ms. Mou Saha,

Ms. Antara Biswas.

.....for the petitioners.

Mr. Ranajit Chowdhury,

Mr. Sudipto Chowdhury,

Mr. Purnendu Modak.

.....for the opposite party

nos.1 & 2.

Mr. Probal Kumar Mukherjee,

Senior Advocate,

Mr. Ayan Banerjee,

Mr. Vijay Agarwal.

.....for the opposite party no.3.

CAN 03 of 2024

This is an application for extension of interim order passed in the matter on August 01, 2023. The said order was subsisting till September 22, 2023 and was subsequently extended till August 31, 2024 vide order dated May 16, 2024.

By consent of the parties, instead of extending the said interim order, the revisional application is taken up for final disposal.

C.O 2064 of 2023

The order of the Debts Recovery Tribunal-III, Kolkata, dated June 15, 2023 is under challenge.

The petitioners have a pending SARFAESI Application being *S.A. 432 of 2022* and an interim application for stay thereto being *I.A. 2380 of 2022* before the said Tribunal.

The Tribunal, for the default in appearance of the petitioners, by the order impugned has vacated the interim order of stay passed on the said application for stay.

Mr. Satarup Banerjee, learned advocate for the petitioners, from the records, draws my attention to the different dates of hearing of the said application for stay fixed by the Tribunal and to demonstrate that the date on which the stay was vacated was fixed behind the back of the petitioners.

Mr. Probal Kumar Mukherjee, learned senior advocate for the opposite party no.3 raises a dispute with regard to the maintainability of the present application on the ground of availability of the relief of appeal against the order impugned, he further submits that the order of stay is harshly affecting the right of his client as he is the *auction purchaser* of the mortgaged property.

Mr. Chowdhury, learned advocate for the Bank, the opposite party nos. 1 & 2 herein submits that due to the subsisting order of stay, the Bank is unable to complete the sale in favour of the opposite party no. 3.

Having heard the learned advocate for the parties and on perusal of the materials-on-record, it appears that there are procedural irregularities in vacating the order of stay as the date on which the said order of stay was vacated, was fixed beyond the knowledge of the petitioners.

In the backdrop of the aforesaid facts and circumstances, this Court is of the opinion that justice would be sub-served if the pending application for stay is disposed of expeditiously and to enable the petitioners to approach the Tribunal for the said purpose, a limited protection should be given to them as they have enjoyed such order of stay for a substantial period of time. Therefore, the interim order passed in the matter on August 01, 2023 directing the parties to maintain *status quo* with regard to the

nature, character and possession of the property sold to the opposite party no. 3 and restraining the said opposite party from creating any third party interest over the said property shall continue to be in force for a **further period of seven days from date of communication of this order to the Tribunal.**

The Tribunal shall dispose of the said application on its merits as expeditiously as possible in accordance with law if necessary, by preponing the date already fixed but shall not be influenced by the fact that this Court has retained the order of stay passed in the matter for a limited period.

To facilitate the expeditious disposal of the said application, the Tribunal shall not entertain the prayer of the parties for any unnecessary adjournment.

C.O. 2064 of 2023 along with the pending connected applications being CAN 01 of 2023, CAN 02 of 2023 and CAN 03 of 2024 are thus disposed of, there shall, however, be no order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of the Court and the Tribunal shall act on it.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)