

12.09.2024
Court No.09
Item no.11
CP

WPA No. 19086 of 2024

Debkumar Dawn
Vs.
The Punjab National Bank & ors.

Mr. Kishore Mukherjee
Mr. Sankha Subhra Ray
....for the petitioner.

Mr. Subhendu Bandyopadhyay
Mr. Arindam Mitra
....for the Punjab National Bank.

The writ petition has been filed with a prayer to direct the bank to dispose of the representation of the petitioner. Further, mandamus has been prayed for restraining the bank from dealing with the subject property, till the disposal of the Title Suit No.254 of 2013.

It is submitted by Mr. Mukherjee, learned advocate for the petitioner that, during the pendency of the writ petition, e-auction sale notice had been published on September 4, 2024. It is submitted that an order of injunction was passed by the learned civil court, in the nature of status quo. In the teeth of such order, the bank had published the e-auction sale notice.

The records reveal that on an earlier occasion, the petitioner filed WPA No. 18449 of 2016 in respect

of a similar cause of action, when a prayer was made to draw up a disciplinary proceeding against the bank manager, who had advanced loan to the borrower on the basis of the deed. The petitioner had prayed for cancellation of such deed before the civil court and an order of injunction had been passed, still the loan had been advanced. His Lordship was of the view that since the petitioner had taken out appropriate proceedings before the competent court for the purpose of cancellation of the deed of sale in favour of the borrower, there was no scope for any interference in the writ petition and the writ petition was accordingly dismissed. The petitioner was granted liberty to take appropriate steps in the suit.

His Lordship was further of the view that whatever would be the outcome of the suit, the bank and other parties shall abide by such outcome. The crucial part of the order is quoted below:-

“In the event the petitioner succeeds by getting decree/order from the appropriate court/forum in his favour cancelling the sale, it will be open to the petitioner thereafter to approach the bank for appropriate reliefs.”

Under such circumstances, the above quoted observations of His Lordship remain, as the bank has not challenged the same. The bank is also not in a position to apprise the court whether sale certificate has been issued in favour of any third party,

pursuant to the e-auction sale notice. The bank must make such position clear, in its future transactions.

Thus, in view of the observations of another coordinate Bench, whatever happens to the property during the pendency of the suit, shall be subject to the civil litigation and the decision of the learned civil court as already held by his Lordship. Accordingly, the petitioner shall be at liberty to take immediate steps before the learned civil court.

Whether there is any violation of the order of injunction or whether in the teeth of the order of injunction, the property could be sold, are matters which will be decided by the learned civil court on the petitioner approaching the civil court.

Accordingly, the writ petition is disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)