

23.02.2024
Item No.1
gd/ssd

MAT/2316/2023
IA NO: CAN/1/2023
M/S SSK MANUFACTURER AND ANR.
VS
BANK OF BARODA AND ANR.

Mr. Proshit Deb,
Mr. Partha Bose
..for the Appellants.

Mr. Manas Dasgupta,
Mr. Tapan Bhanja
..for the Bank.

1. This intra court appeal by the writ petitioners is directed against the order dated 16th November, 2023 in WPA 23758 of 2023.

2. The said writ petition was disposed of by issuing a direction that the appellants should pay the balance amount due in full and final settlement within November 24, 2023 upon which the bank shall release the title deeds of the appellants in their favour. Further, it was made clear that in the event of such amount is paid, the bank shall take necessary consequential steps subject to the satisfaction of the bank of the veracity of the demand draft including issuing no dues certificate and returning the title deeds of the mortgaged properties of the appellants. In default of such payment, the bank shall be at liberty to take necessary steps for realisation of the due amount.

3. When the intra court appeal came up for hearing on 5th January, 2024, the following order was passed:

“1. This intra-Court appeal by the writ petitioners is directed against the order dated 16th November, 2023 in W.P.A. No.23758 of 2023. By the said order, the learned writ court directed the appellants to pay the entire dues payable to the respondent/bank within a week.

2. Admittedly, the appellants are defaulters and the proceedings were initiated by the bank before the Debts Recovery Tribunal in O.A. No.137 of 2023. The said matter was referred to the Lok Adalat and an award was passed on 9th September, 2023, by which the appellants were required to pay a sum of Rs.17,00,000/- by 25th September, 2023 and the balance amount of Rs.1,53,00,000/- within three months from 25th September, 2023.

3. The appellants' case is that they could not immediately arrange for the sum of Rs.17,00,000/- before 25th September, 2023, but they were able to arrange the same by 5th December, 2023 but the bank refused to accept the same.

4. Considering the fact that the appellants are defaulters and as of now, the appellants are ready and willing to pay the entire dues payable to the respondent/bank, while keeping this appeal pending, we direct the appellants to approach the respondent/bank and liquidate the entire dues by 16th February, 2024 by way of bankers cheque/demand draft from the bank account of the appellants.

5. Let the matter be listed under the caption “To Be Mentioned” on 23rd February, 2024.”

4. Today, the factual position is that the appellant/writ petitioners have not liquidated the entire dues by 16th February, 2024.

5. As rightly pointed out by the learned advocate for the respondent/bank, the appellants have been dragging out the matter for quite some time and was failed to avail the opportunity granted by the learned writ court as earlier as on 16th November, 2023 or the opportunity granted by this court on 5th January, 2024.

6. Therefore, the further indulgence cannot be granted to the appellants.

7. For the above reason, the appeal is dismissed.

8. The respondent/bank shall take immediate steps for recovery of the entire dues.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)