

31 30.07.2024
AN Ct. No. 01

MAT 2497 of 2023
with
IA No. CAN 1 of 2023

Indian Bank & ors.
Vs.
M/s. Satimata Himghar & ors.

Mr. Tilak Mitra
Ms. M. Pal

... For the Appellants

Mr. Mohit Gupta

... For the Respondents

1. We have heard learned counsel appearing for the respective parties at length.

2. This appeal is filed against the order dated 11.12.2023 passed in WPA 21677 of 2023. The said writ petition was filed by the respondent bank in the writ petition praying for a writ of mandamus to direct the appellant bank to handover the original title deeds and other original relevant documents as mentioned in the representations given by the respondent/writ petitioner. The appellant bank refused to release the documents despite the fact that the loan borrowed by the respondents herein has been fully repaid by contending that they are entitled to hold the documents exercising the banker's lien as the writ petitioner was a guarantor for a loan borrowed by a different entity with the same bank.

3. The correctness of the stand taken by the appellant bank was considered by the learned Single Judge and after noting the facts, it has been rightly observed that

merely because the writ petitioner no. 5 may be common in the sense he is the partner of the writ petitioner no. 1 firm as well as the guarantor in respect of different loans by a third party, cannot furnish a ground to the bank to withhold the title deeds and other securities of the partnership firm which has got no connection whatsoever with the loan taken by the other juristic entity/company.

4. The learned Single Judge has rightly noted that with the same title deeds and other securities, the bank could not have created to separate the mortgages in respect of two different loans taken by the entirely different entities and with these findings the learned Single Judge disposed of the writ petition by directing the appellant bank to return the title deeds and other securities deposited as security for the loan taken by the writ petitioner no. 1 partnership firm which has since been repaid in its entirety and the documents were directed to be returned within a period of fortnight from the date of the order i.e. 11.12.2023. We find that the learned Single Judge considered the factual position and arrived at a right decision calling for no interference.

5. Accordingly, the appeal stands **dismissed** and the appellant bank is directed to comply with the directions issued by the learned Single Judge within a period of fortnight from the date of receipt of the server copy of this order.

6. Consequently, connected application, if any,

also stands dismissed.

(T. S. Sivagnanam)
(Chief Justice)

(Bivas Pattanayak, J.)