

OD 6

WPO/1803/2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

KARTICK DHAR AND ANR.
VS
THE ASSISTANT GENERAL MANAGER,
PUNJAB NATIONAL BANK AND ANR.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date: 3rd January, 2024.

Appearance:
Mr. Piyush Kanti Ray, Adv.
Mr. Sourajit Mukherjee, Adv.
...for the petitioners

The Court: Affidavit of service filed today be kept on record.

Despite service, none appears for the respondents.

The petitioners are the successful e-auction purchasers in a bank sale.

After successfully purchasing the secured assets put up for sale by the bank and the sale certificate having been issued in favour of the petitioners, the petitioners have been running from pillar to post, since there is a substantial chunk of movable properties lying in the immovable properties which have been purchased by the petitioners.

The petitioners moved this Court time and again. Initially, a direction was passed by a coordinate Bench on the District Magistrate to take necessary steps

under Section 14 of the SARFAESI Act, 2002. Subsequently, a contempt application has been filed and ultimately the possession of the property was taken by the Authorized Officer. However, the petitioners are not willing to take responsibility for the substantial movable properties (which are not part of the secured assets) lying in the immovable properties purchased by the petitioners. Accordingly, the petitioners made a written communication dated September 8, 2023 to the Authorized Officer of the respondent bank seeking handing over actual physical possession of landed property in a vacant condition, sans the inventorized movable articles lying thereon.

A scrutiny of the concerned provision of law does not, as such, indicate any specific provision in a scenario as the present one. Although the Security Interest (Enforcement) Rules, 2002, under Rules 5 and 6 thereof, contemplates valuation and sale of movable properties, the said provisions pertain specifically to movable secured assets, which is not the present case. The secured assets here was comprised purely of immovable properties which have already been sold to the petitioners.

However, it is the obligation of the Authorized Officer to hand over, after taking possession, only the secured assets by way of immovable properties to the successful auction purchasers, that is, the present petitioners.

In so far as the movable properties lying in the said secured assets are concerned, it is the obligation of the authorized officer to remove the same and hand over the vacant possession of the immovable properties to the successful purchasers/petitioners.

In so far as the movable articles lying thereon are concerned, it will be open to the Authorized Officers of the respondent bank to seek appropriate orders from

the concerned Debts Recovery Tribunal for appropriate mode of disposal of the same.

In the light of the above observations, WPO/1803/2023 is disposed of by directing the respondent no.2, that is, the Authorized Officer of the Punjab National Bank to hand over the peaceful and vacant possession of the immovable property in question, which was purchased by the petitioners in auction sale from the Punjab National Bank, to the petitioners at the earliest, positively within one month from date. Before doing so, it will be open to the authorized officer to remove the movable properties lying thereon and to dispose of the same in terms of appropriate orders to be sought by the Authorized Officer from the concerned Debts Recovery Tribunal having jurisdiction.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)