26.02.2025
Item No.15
RP/SG
Ct. No.1

MAT 265 of 2025
+
IA No.CAN 1 of 2025

Union Bank of India & Anr.
Vs.
Deepak Kumar Agarwal

Mr. Indrajit Bhattacharjee
Mr. Pankaj Kumar Mukherjee
....for Appellants

Mr. Suddhasatva Banerjee
Mr. Ritoban Sarkar
Mr. Vikas Baisya
Ms. Ranjana Seal
....for Respondent

1. This intra-Court appeal filed by the Union Bank of India is directed against the order dated 12.02.2025 passed in WPA 25571 of 2024. The respondent/writ petitioner approached the learned writ Court aggrieved by the act on the part of the appellant bank in not refunding the sum deposited by him for purchasing a property, which was put for auction under the provisions of SARFAESI Act.

2. The respondent/writ petitioner participated in the auction sale and was declared as a successful bidder. Upfront payment was made by the writ petitioner after he was declared as highest bidder on 24th August, 2022 and the balance consideration was paid on 23rd November, 2022. This fact is not

disputed by the appellant bank. However, at the instance of the borrower the Debt Recovery Tribunal had granted an interim order thereby restraining the appellant bank from handing over possession of the property, which was put for action. Therefore, the writ petitioner made a prayer before the appellant bank to refund the entire sale consideration. Though such request was made immediately after coming to know of the interim order granted by the Debt Recovery Tribunal, the refund was approved only in August 2024 as could be seen from the email sent by the appellant bank to the writ petitioner. The learned Single Bench, therefore, issued a direction to the appellant bank to refund the entire sale consideration and also ordered that the amount should be refunded along with simple interest. This discretion was exercised by the learned writ Court taking into consideration that the entire consideration was paid by the writ petitioner as early as in the month of November 2022 and the bank was holding on to the writ petitioner's money and the writ petitioner was put to prejudice on account of the order of stay granted by the Debt Recovery Tribunal, which the appellant bank was unable to vacate. Therefore, the discretion exercised by the learned writ Court to direct payment of the entire consideration together with simple interest cannot be faulted nor it can be stated to be arbitrary exercise for this Court to interfere with the impugned order. Therefore, we find no grounds to interfere with the impugned order.

3. In the result, the appeal and the connected application stand **dismissed**. The appellant is directed to refund the entire consideration along with simple interest at the rate of 4% per annum within a period of fifteen days from the date of receipt of the server copy of this order. In the event, the direction is not complied with and payment of refund is delayed as ordered by the learned writ Court then additional interest at the rate of 2% shall be payable to the writ petitioner on and from the due date till the date of actual payment.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)