

**01.05.2025**  
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MAT 568 of 2025  
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IA No.: CAN No. 1 of 2025  
**Canara Bank & Others**  
– *Versus* –  
**Prasenjit Ghosh & Others**

Mr. Farooque Ali,  
Mr. Afsar Ali  
... for the Bank/Appellants.

Mr. Kamalesh Bhattacharya,  
Mr. Emon Bhattacharya,  
Mr. Balaram Sardar,  
Ms. Pooja Sah,  
Mr. Pratik Dutta  
... for the Writ Petitioner/  
Respondent no.1.

Affidavit-of-service, as filed, be kept on record.

By the impugned order the learned single Judge has directed the bank/appellants to hand over possession of Flat no.2B (said flat) to the writ petitioner/respondent no.1 herein, who claims to be the owner of the said flat.

Peculiar facts of this case are that the bank had given a loan for purchase of Flat no.2D to the respondent no.4, who was conspicuously absent at the time of hearing of the writ petition and is also presently not represented. This loan was allegedly given sometime in 2021 upon verifying all requisite documents that the respondent no.4 was indeed the purchaser of the said flat (2D). The writ petitioner/respondent no.1 herein claims to be the owner of Flat no.2B. It is this flat, i.e., 2B which the writ petitioner/respondent no.1 alleges that the

bank/ appellants has taken possession, upon forcibly dispossessing him.

It is not in dispute that there was a loan given by the bank to the respondent no.4. It is also not in dispute from the deed of conveyance that the writ petitioner/respondent no.1 is the owner of Flat no.2B. However, there is no nexus between the loan given by the bank to the respondent no.4 and Flat no.2B of which the writ petitioner/respondent no.1 is the owner.

In the said conspectus, the argument of Mr. Ali, learned advocate appearing on behalf of the bank/appellants that disputed question of facts are involved in the present matter, is not acceptable to us.

In the aforesaid facts and circumstances, we find no reason to interfere with the order impugned in the present appeal, dated 10<sup>th</sup> April, 2025.

However, we make it clear that upon handing over of possession of Flat no.2B by the bank/appellants to the writ petitioner/ respondent no.1 herein in terms of the order of 10<sup>th</sup> April, 2025, he shall not create any third party interest by way of alienation or encumbrance in respect of Flat no.2B in any manner whatsoever, till disposal of the writ petition.

Since the time stipulated by the order of 10<sup>th</sup> April, 2025 has presently expired, the bank is directed to hand over possession of Flat no.2B within seven days from date.

With the above observations and directions, the appeal and the application are disposed of.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

**(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)**