

16-09-2025
Item No.49
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.16010 of 2025

Omair Mumtaz

-vs-

Canara Bank & Ors.

Mr. Bidyut Kumar Halder

Mr. Indranil Halder ...for the petitioner

Mr. Farooque Ali

Mr. Faizan Md. Zafar ...for the bank

1. The petitioner claims to have purchased a property on sale from Canara Bank under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Allegation is that though the sale certificate mentions handing over possession of 1100 sq. ft., but actually only 500 sq. ft. has been handed to the petitioner.
2. Further grievance of the petitioner is that the Kolkata Municipal Corporation initiated a proceeding under the Kolkata Municipal Act, 1980 against the unauthorized construction made at the subject premises for which the petitioner is not in a position to do the repair/renovation work at the subject premises.
3. The petitioner contends that the bank has committed fraud by selling the property upon suppression of material facts. Prayer has been made to direct the bank to refund the money paid by the petitioner at the time of sale of the subject

property.

4. From the documents annexed to the writ petition, it appears that a sale certificate along with a communication mentioning handing over of physical possession of the property sold in SARFAESI e-auction giving detailed description of the subject property was handed over to the petitioner. There is nothing on record to suggest that the petitioner objected to the measurement of the property sold to the petitioner.
5. After the sale certificate has been issued and possession has been taken by the petitioner, he ought not to turn around and challenge the measurement of the property sold. The petitioner ought to have exercised caution at the time of submitting his bid during the auction. After the sale stood concluded, allegation of the petitioner regarding handing over of less area cannot be looked into or adjudicated by the writ court.
6. As regards steps taken by the Corporation and the police to stop the petitioner from proceeding with any repairing/renovation work, it appears that steps have been taken under the provisions of the 1980 Act. It will be open for the petitioner to approach the competent forum for remedy in accordance with law, if so advised.
7. The bank does not owe any further obligation to the buyer as regards permission to be obtained from the statutory authorities for making repair/renovation work.
8. The writ petition thus fails and is hereby dismissed.
9. All parties are to act on the server copy of this order duly downloaded from the official website of

this Court.

10. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]