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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 4336 of 2024
With
CAN 1 of 2025

Arup Saha & Anr.
Versus
Punjab National Bank & Anr.

Mr. Bijoy Adhikary
Mr. Ganesh Chandra Patra
Ms. Susmita Adhikary
... For the petitioners.

Mr. Subhendu Bandopadhyay
Mr. Arindam Mitra
Ms. Dipanwita Ganguly
Mr. Pratap Kumar Yadav
... For the opposite parties.

1. On 17th January, 2025, this Court was, inter alia, pleased to pass the following order:-

> **"2.** *Challenging the order dated 28th November, 2024 passed by the learned Presiding Officer, Debts Recovery Tribunal II, Kolkata, the instant revisional application has been filed.*
> ***3.*** *In connection therewith, an application, being CAN 1 of 2025, has also been filed.*
> ***4.*** *Mr. Adhikary, learned advocate appearing in support of the aforesaid revisional application by drawing attention of this Court to the sale certificate appearing at page 19 of the application, being CAN 1 of 2025 would submit that a sale certificate has been purported to be issued on 3rd December, 2024 though the order passed by the District Magistrate and Collector under Section 14 of the*

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (SARFAESI), appears to have been passed on 19th December, 2024. Having regard thereto, he would submit that no sale certificate could have been issued on 3rd December, 2024 prior to the District Magistrate taking over possession of the property forming subject matter of sale certificate dated 3rd February, 2024. He would further submit that the petitioners are the owner in respect of the secured property in respect whereof the sale certificate has been issued and as such are vitally interested.

5. *Mr. Bandopadhyay, learned advocate enters appearance on behalf of the opposite parties. He would submit that the opposite parties have already not only taken steps for sale of such property under the provisions of SARFAESI Act, 2002 but the property has already been sold and a sale certificate in this regard has already been issued. He would submit that the petitioner is aggrieved by the non-disposal of his application which was moved by a put up petition and has approached this Court. In the facts noted above no interim relief should be afforded and the matter should be sent back to the tribunal.*

6. *Having heard the learned advocates for the parties, I find that although the petitioner has approached the Tribunal, challenging the sale notice dated 25th July, 2024 and the paper publication dated 30th August, 2024 and 6th November, 2024 the*

> *Tribunal had deferred the hearing of such application on 28th November, 2024. In the interregnum the sale certificate has been issued on 3rd December, 2024. Although, the learned advocate appearing on behalf of the opposite parties has placed before this Court two several orders dated 20th December, 2024 and 10th January, 2025 intimating that the matter is at present being heard by the Tribunal, I am of the view, having regard to the contention raised by Mr. Adhikary, in Court, it is necessary for the opposite parties to take appropriate instruction in this matter, having regard to the issuance of sale certificate on 3rd December, 2024 and the order under Section 14 of the SARFAESI Act in assisting the secured creditor for taking over possession, having been passed on 19th December, 2024.*
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> ***7.*** *In view thereof, list this matter on 21st January, 2025 under the heading "Upgraded Motion" for further consideration.***"**

2. Today, the matter has come up for further consideration.

3. Mr. Bandopadhyay, learned advocate appearing on behalf of the opposite parties would submit that all steps have been taken by the bank in compliance with the provisions contained in SARFAESI Act, 2002. He would also submit that next date for hearing before the learned Tribunal

is fixed on 29th January, 2025 and, in the fitness of things, this matter may be remanded back to the learned Tribunal for adjudication of the issues raised by the petitioners. He, however, submits that in the interregnum no further steps shall be taken by the opposite party/bank.

4. Having heard the learned advocates appearing for the respective parties and without going into the issue as to whether the bank had acted in compliance with the provisions contained in the SARFAESI Act, 2002 and the Rules framed there under, I am of the view that since the matter is scheduled to be heard by the learned Tribunal, on 29th January, 2025 and since the petitioners has approached this Court as the learned Tribunal without considering the petitioners' case had been deferring the hearing, it shall be prudent at this stage to direct the learned Tribunal to decide the question raised by the petitioners in their application filed before the learned Tribunal on the basis of the disclosure to be made by the parties.

5. Having regard thereto, let no further steps be taken by the bank till the next date of hearing, i.e. 29th January, 2025. The petitioners shall be at liberty to apply for interim order before the learned Tribunal on the next date of hearing.

6. It appears that in the order dated 21st January, 2025, in the cause title, the year of the connected application has been wrongly recorded as CAN 1 of 2024. Let the same be corrected to read as "CAN 1 of 2025". Let the aforesaid correction be incorporated in the order dated 21st January, 2025.
7. With the above observations and directions the revisional application is disposed of along with the connected application being CAN 1 of 2025.

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

(Raja Basu Chowdhury, J.)