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ORDER SHEET
WPO No.44 of 2025
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S. STAR ABASAN PRIVATE LIMITED & ANR.
-Versus-
THE PUNJAB NATIONAL BANK & ORS.

BEFORE
The Hon'ble Justice AMRITA SINHA
Date: 27th January, 2025.

APPEARANCE:

Mr. Suddha Satva Banerjee, Adv.
Mr. Supratic Roy, Adv.
Mr. Shuvajit Roy, Adv.
...for the petitioner.

Mr. Chapales Bandopadhyay, Adv.
Ms. Gargy Basu, Adv.
..for the respondent nos.1 & 2.

1. The petitioner is aggrieved by the manner in which the Recovery Officer, Debts Recovery Tribunal-III, Kolkata has proceeded in case No.RP/124/2011 (Punjab National Bank vs. Anuradha Giri & Anr.).
2. The petitioner claims to have purchased the subject property which is allegedly mortgaged to the Punjab National Bank by way of a registered indenture of sale. As there was certain amount due under the Income Tax Act, 1961, the Recovery Officer proceeded with the sale.
3. The petitioner is aggrieved by the same and submits that as the matter is pending consideration before the Recovery Officer and date has been fixed on 30th January, 2025, the bank ought not to proceed with the sale or else the application of the petitioner for intervention will become infructuous if the sale takes place in the meantime.

4. From the impugned order placed before this Court it appears that the date of e-auction was fixed on 17th January, 2025.
5. Learned counsel representing the bank, on instruction, submits that the sale took place on the said date. The sale certificate has, however, not been issued till date.
6. On the ground that the writ petition will be maintainable before this Court at this stage, the petitioner relies upon the judgment delivered by the Hon'ble Supreme Court in the matter of ***Jharkhand Urja Vikas Nigam Ltd. vs. State of Rajasthan & Ors.*** reported in **(2021) 19 SCC 206**, wherein the Court held that when an order is passed without recourse to proper provision of law, the remedy under Article 226 is available.
7. The petitioner submits that if the sale certificate is issued despite the petitioner purchasing the subject property by way of a valid indenture of sale, then the petitioner will be left remediless.
8. Learned counsel representing the bank submits that the original title deed of the subject mortgaged property is in the possession of the Debts Recovery Tribunal. It has been contended that the petitioner is in possession of the mortgaged property but the sale in favour of the petitioner is an absolute fraudulent one.
9. It appears from the submissions made on behalf of both the parties and on perusal of the materials on record that the Recovery Officer is already in seisin of the matter and is examining the right of the

petitioner to hold the subject property. If, in the meantime, the property is sold and sale certificate is issued, then the petitioner will be highly prejudiced and may remain non-suited.

10. In view of the above, only for granting an interim protection to the petitioner to agitate all points before the Recovery Officer, the instant writ petition is allowed.
11. The Recovery Officer is directed to decide the right of the parties, including the petitioner, and thereafter pass necessary order for issuance of sale certificate if the sale actually took place in accordance with law. The Recovery Officer shall take steps in the matter at the earliest.
12. The bank is restrained from issuing the sale certificate till 28th February, 2025 or until further order passed by the Recovery Officer, whichever is earlier. It is expected that the Recovery Officer shall decide the issue within the validity period of the interim order and, if the issue cannot be decided within the aforesaid time limit, then the Recovery Officer shall decide whether to extend the interim order or not.
13. WPO/44/2025 stands disposed of.
14. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)