13.05.2026
Item No.01
Court No.12
Cp

MAT 1629 of 2025
With
CAN 1 of 2025

LIC Housing Finance Limited
Vs.
Asoke Kumar Jana & Ors.

Mr. Sakya Sen, Sr. Advocate
Mr. Hemant Tiwari

…for the Appellant.

Mr. Kallol Mondal, Sr. Advocate
Mr. K. Ray
Mr. Souvik Das
Mr. Anamitra Banerjee
Mr.Sreyash Kr. Singh,
Ms. Moupia Chakraborty,

…for the respondent no.1.

1. The appeal is directed against an order dated August 6, 2025, passed by a learned Single Judge of this court, directing the LIC Housing Finance Limited to make a thorough search and trace out the original sale deed and also to assist the borrower to obtain a certified copy of the original deed and bear the cost thereof, in the event the original cannot not be found. In addition, His Lordship also directed payment of compensation. Although, the quantum of compensation was not computed by His Lordship. His Lordship, had referred to Clause (6) of the Circular of the Reserve Bank of India, which provided that, in case of delay on the part of the financier to hand over the documents to the borrower upon repayment of the

loan amount, compensation @ Rs.5000/- for each day's delay should be paid to the borrower by the financier.

2. Mr. Sen, learned senior advocate for the appellant/ financier, submits that the loan was disbursed on the basis of a registered agreement for sale, which was deposited with the financier. An amount of Rs.7,00,000/- was sanctioned. The first instalment for an amount of Rs.5,46,000/- was released on December 15, 2009 and the second instalment for an amount of Rs.1,00,000/- was released on August 30, 2011.

3. Thus, the first contention of Mr. Mondal, learned senior advocate for the borrower which was accepted by the learned Single Judge that, without deposit of the title deed the loan could not have been disbursed, is not correct. We find from the documents annexed to the paper book that, the deed of conveyance was executed on September 30, 2011, i.e. after the second tranche of the loan had been released. The contention of the appellants is that, the loan was sanctioned and disbursed on the basis of the registered agreement for sale.

4. The records do not indicate that the original deed of conveyance was deposited either by the borrower or the builder, with the financier or its representative. The pleadings in paragraphs 9, 16 & 17 of the writ petition which are quoted below, indicate that after

execution of the deed, the original receipt was kept with the builder, as the builder was required to deposit the same with the appellant. There is no pleading which would indicate that the borrower was aware of the date and time when the deed was actually deposited by the builder with the financier. It also does not appear from the records that the factum of registration of the deed of conveyance was ever informed either by the builder or the borrower to the financier. The said paragraphs 9, 16 and 17 of the writ petition are as follows:-

> "9. Your petitioner states that in keeping with the terms and conditions of the said tripartite agreement dated 6th November, 2009, the said registration receipt was kept with the respondent no. 3 for onward submission to the respondent no. 2. ** ** ** **
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> 16. Your petitioner states that in terms of the said tripartite agreement dated November 6, 2009 entered into by and between the respondent Nos.2, 3 and your petitioner, the respondent no. 3 executed necessary deed of conveyance in favour of your petitioner and thereafter without handing over either the title deed or the registration receipt kept the same with a view to submit the same directly to the respondent no.2.
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> 17. Your petitioner states that in terms of the said tripartite agreement, the deed of conveyance was registered on 30th September, 2011 and the original registration receipt was kept with the respondent no. 3 to deposit the same to the respondent no.2."

5. The case made out by the borrower is that, as per the tripartite agreement entered into between the borrower, builder and the financier, the builder was required to deposit the registered deed of sale with the financier. The writ petition is based on an

assumption that, as a natural consequence of such tripartite agreement, the builder must have deposited the deed with the financier. The knowledge of the borrower that the same was done by the builder, is neither pleaded nor proved. The builder filed an affidavit averring that the IGR was handed over to the representative of the financier. Strangely, neither the builder nor the borrower retained a photocopy of the IGR. They have not been able to produce any document showing handing over of the IGR to the financier or its authorized representative. The documents which were required to be signed and filled in while accepting the deposit of the title deed were blank in the records of the financier.

6. Under such circumstances, based on a submission that the builder must have deposited the IGR with the financier, or else the sanctioned amount would not have released, cannot amount to proof of failure on the part of the financier to return the original title deed.

7. More so, the last instalment of the loan amount was released to the borrower by the financier, prior to the execution of the deed of conveyance. The writ court presumed that there was failure on the part of the financier to discharge its duties only on the submission of the builder. However, no factual finding had been arrived at by the learned court which would establish that the original deed of

conveyance was deposited with the financier or its authorized representative and that, despite having accepted the deposit of the original deed of conveyance, the financier had lost the same.

8. Under such circumstances, although the direction to assist the borrower to obtain a certified copy at the cost of the financier is not interfered with and the said direction has been complied with by the financier, the further direction to compensate the borrower as per the Reserve Bank of India's circular without any concrete finding with regard to the loss of the document from the custody of LIC Housing Finance Limited, cannot be sustained.

9. Under such circumstances, the portion of the order dealing with the payment of compensation is set aside.

10. If the borrower can get hold of sufficient material in support of the contention that the registered deed of sale was deposited with the LIC Housing Finance Limited after the loan was disbursed, the borrower may proceed in accordance with law.

11. We also find that the RBI circular which has been relied upon, is prospective in operation and did not date back to the time when the loan was disbursed or even when full payment thereof was made.

12. Accordingly, with the above modification of the order impugned, the appeal and the connected application are disposed of.

13. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)