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23.03.2026
Ct No.11
rrc

MAT 1509 of 2015
with
IA No. CAN 1 of 2015 (Old No. CAN 9804/2015)
with
IA No. CAN 3 of 2025
with
IA No. CAN 4 of 2025
(Ratan Poddar Vs. Indian Bank & Ors.)

(A s s i g n e d)

Mr. Siddhartha Banerjee
Ms. Paramita Datta
Ms. Reshmi Bothra
Ms. Moumita Sharma
... For the appellant

Mr. Subhotosh Dhar
..... For the respondent
nos. 1 to 4/Bank

Mr. Jahar Lal De, AGP
Mr. Shamim ul Bari
..... For the State respondents

Mr. Subir Banerjee
Mr. Kamal Das
Ms. Shweeta Singh
Ms. Smritikana Saha
Ms. Isita Saha
..... For the respondent no. 8

Records reveal that one Ratan Poddar (hereinafter referred to as Ratan) preferred a writ petition being WP No. 11931 (W) of 2015 stating *inter alia* that responding to a notification issued by the Indian Bank (in short, the bank) for auction of land covering 2 cottahs, 9 chittaks, 36 sq. ft. together with building constructed thereon at Plot No. 827, Khatian No. 1306, J. L. No. 17, Mouza – Krishnapur, Holding No. AB/91 at Prafulla Kanan (West), under Ward No. 20 of Rajarhat Gopalpur Municipality (hereinafter referred to as the said property), he participated in the

auction process and emerged to be successful and was issued a sale certificate by the authorized officer on 15th March, 2012. However, the bank did not hand over possession of the said property on a purported plea that they have not got vacant physical possession of the said land. As the bank was evading its duties to hand over physical possession of the said property, Ratan was constrained to prefer a writ petition being WP No. 11931 (W) of 2015. Upon contested hearing, the said writ petition was dismissed by an order dated 4th September, 2015 observing *inter alia* that the ‘secured creditor not having taken actual physical possession of the immovable property in question the sale is bad in law’. Aggrieved thereby, Ratan preferred an appeal being MAT 1509 of 2015 in which a coordinate Bench of this Court passed an order on 30th September, 2015 as follows:-

*‘The appellant/petitioner who is none other than the auction purchaser is before us. According to him, learned Single Judge was not justified in placing reliance on FMAT 1835 of 2014 since the controversial issue was the subject matter of discussion before the Apex Court in **Transcore Versus Union of India and another** reported in (2008) 1 Supreme Court Cases 125 prior to the case in **Standard Chartered Bank Versus V. Noble Kumar and others** reported in (2013) 9 Supreme Court Cases 620.*

*On perusal of **V. Noble Kumar and others (supra)** and **Transcore (supra)**, we find that in **V. Noble Kumar and others (supra)** the decision of **Transcore (supra)** was never referred to.*

*As a matter of fact, on 05.02.2015 when we disposed of F.M.A.T. 1835 of 2014 **Transcore (Supra)** was not brought to our notice and only **V. Noble Kumar and others** was brought to our notice.*

In that view of the matter, since the same issue in question has to be considered in two decisions of the Apex Court, the matter is referred

to a Larger Bench to be constituted by the Chief Justice.

Till Larger Bench decides the issue, the impugned order is kept in abeyance.'

Pursuant to the said order, the matter was pending before the Larger Bench and the reference was ultimately concluded by the Larger Bench by an order dated 9th December, 2019 which runs as follows:-

'In view of the recent judgment of the Supreme Court reported at (2019) 2 SCC 198 (Hindon Forge Private Limited v. State of Uttar Pradesh), the reference has become redundant. The law pertaining to the legal questions raised has been authoritatively pronounced upon in the judgment in Hindon Forge Private Limited.

Accordingly, the reference is concluded by respectfully adopting the view expressed in the judgment in Hindon Forge Private Limited. Let the appeal now appear before the appropriate Bench for its disposal in accordance with law.'

Mr. Banerjee, learned advocate appearing for Ratan submits that the issue involved in the present *lis* has now been finally decided in the case of *Hindon Forge Private Limited Vs. State of Uttar Pradesh through District Magistrate, Ghaziabad and another*, reported in (2019) 2 SCC 198 and the said issue is no longer *res integra*. In the judgment delivered by the Hon'ble Supreme Court in *Hindon Forge Private Limited (supra)*, the contention of the learned single Judge that '*secured creditor not having taken actual physical possession of the immovable property in question the sale is bad in law*', has been negated. In view thereof, the bank is under an obligation to hand over physical possession of the said property to Ratan immediately.

Mr. Subir Banerjee, learned advocate appearing for the respondent no. 8 in the present appeal, however, submits that the said property was initially given on lease to a cooperative society, namely, '*Prafulla Samabaya Krishi Samity Limited*' originally in the year 1949 for a fixed tenure. On or about 10th June, 1992, the grandfather of the respondent no. 8 became a member of the said society and purchased a share. The respondent no.8 along with his father applied for an educational loan from the bank and at the time of sanction of such loan, the original deed of the landed property was handed over to the bank and thereafter the bank illegally classified the educational loan as non-performing asset on 31st December, 2010. Detailing the entire facts, the said respondent no. 8 instituted a proceeding before the learned Debts Recovery Tribunal in 2012 and the same was registered as SA 210 of 2012 and later re-numbered as TSA 656 of 2016. The said proceeding is still pending.

Mr. Dhar, learned advocate appearing for the respondent nos. 1 to 4/bank submits that the bank filed an application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, SARFAESI Act) and in the same, an order was passed on 27th September, 2022 and on the basis of the same, physical possession of the property was handed over to the bank and the bank is in physical possession of the same.

He further submits that in view of the judgment delivered by the Hon'ble Supreme Court in the case of *Hindon Forge Private Limited (supra)*, the bank is ready and willing to hand over the physical possession of the said property to Ratan.

Having heard the learned advocates appearing for the respective parties and considering the materials on record and as the dispute urged in the present appeal is no longer *res integra* and has been decided by the Hon'ble Supreme Court in the case of *Hindon Forge Private Limited (supra)*, we set aside the order impugned in the present appeal and direct the bank to hand over physical possession of the said property to the appellant within a period of 2 (two) weeks from the date of communication of this order.

With the above observations and directions, the present appeal and the connected applications are disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official website of this court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)