

(2025) 01 CAL CK 0046

Calcutta High Court (Appellate Side)

Case No: CO No. 4335 Of 2024

Md. Alem Box

APPELLANT

Vs

Punjab National Bank & Ors

RESPONDENT

Date of Decision: Jan. 15, 2025

Hon'ble Judges: Raja Basu Chowdhury, J

Bench: Single Bench

Advocate: Ranjan Kali, Debarshee Das, Dipankar Das

Final Decision: Disposed Of

Judgement

Raja Basu Chowdhury, J

1. Affidavit of service filed in Court today is taken on record.

2. On 23rd December, 2024, This Court was inter alia pleased to pass the following order:-

"2. Challenging inter alia the order dated 19th November, 2024 passed by the Recovery Officer-in-Charge DRT -II Kolkata in connection with Recovery Case No. RC 54 of 2020, whereby the application filed by the petitioner had been dismissed, the instant revisional application has been filed.

3. Mr. Kali, learned advocate representing the petitioner by drawing attention of this Court to the order no.23 dated 8th August, 2023 would submit that the Recovery Officer taking note of the case made out by the petitioner that the title deeds filed by the intending intervenor/petitioner and the Dag numbers mentioned in the attachment order matched with the Dag No. in the title deed executed in favour of the intervenor and for the purpose of ascertain whether the property of the certificate debtor is different and distinct from the said Dag Nos., had directed the parties to maintain status quo.

4. Mr. Kali, further submits that the property forming the subject matter of attachment does not belong to the certificate debtor and has no nexus with the certificate debtor. He would submit that since the Recovery Officer was prima facie satisfied with the case as made out by the intervenor/petitioner had directed the parties to maintain status quo vide order dated 8th August, 2023. By an order dated 19th November, 2024 the learned Recovery Officer on the basis of a report of the learned receiver and taking note of the fact that the property had been identified and demarcated as the mortgaged property had dismissed the appeal without adjudicating the objection raised. He would submit that since his rights are being interfered with, he was entitled to be heard. The Recovery Officer without considering such aspect had dismissed the matter.

5. Having regard to the case made out and since it is submitted that the certificate debtor armed with an order of police help is proceeding in hot haste, I am of the view that the petitioner is entitled to a limited protection.

6. Having regard thereto, let the status quo in respect of the property in question be maintained till 15th January, 2025 or until further order, whichever is earlier.

7. List this matter under the heading "Upgraded Motion" on 15th January, 2025.

8. The petitioner is directed to ensure service upon the opposite parties and to file an affidavit of service to that effect when the matter is taken up next."

3. Today, the matter has come up as returnable motion and is taken up for further consideration.

4. At the outset, Mr. Das, learned advocate representing the opposite party nos. 1 and 2 would submit that the petitioner has an alternative remedy in the form of an appeal under Section 30 of the Recovery of Debts and Bankruptcy Act, 1993. He would submit that since the petitioner is already enjoying the interim protection and there is an order of status quo, this Hon'ble Court can permit the petitioner to approach the Debts Recovery Tribunal, since the order impugned is appealable.

5. Having heard the learned advocates appearing for the respective parties and considering the fact that the petitioner has an alternative remedy and since the petitioner is already enjoying limited protection, I am of the view that the petitioner should be afforded a liberty to approach the Tribunal.

6. In view thereof, the interim protection granted on 23rd December, 2024 is extended for a period of two months from date.

7. If the petitioner approaches the Tribunal within a period of four weeks from date, the learned Tribunal shall consider the cause on merits, in accordance with law.

8. With the above observations and directions the revisional application stands disposed of.

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