

OCD-6

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
COMMERCIAL DIVISION

IA No.GA-COM/10/2024
IN
CS/4240/1951
BERHAMPORE BANK LIMITED (IN LIQN.)
VS.
RAM RANJAN CHOWDHURY & ANR.

BEFORE:

The Hon'ble JUSTICE BIVAS PATTANAYAK

Date: 8th January, 2025.

Mrs. Soma Chatterjee Mishra, Mr. Souri Ghosal, Mr. Supratik Shymal, Advocates for the applicant.

Ms. Noelle Banerjee, Mr. Arindam Mandal, Mr. Aishik Chakraborty, Mr. Paritosh Sinha, Advocates for the State.

Ms. Sarda Sha, Mr. Krishnayan Ghosh, Advocates for Court Liquidator.

The Court : By the present application following orders have been sought for :

a) Leave may be granted to the purchaser i.e as one of the occupants, who have been occupying a portion of the said property to intervene as applicant in this suit.

b) An order be made that on payment of amount being due to the plaintiff out of the above mortgage property shall be realized in respect of properties covered under the judgment passed by the Justice Manjula Bose dated 9th June, 1989.

c) Leave may be granted to the purchaser/applicant to deposit the balance amount in respect of the 4 bigha, 19 Khatha, 5 Chitak of land occupied by the present petitioner in the Hon'ble Court as per order 9th June, 1989.

d) Directions may be given to the Court Liquidator appearing through supervision officer to forthwith confirm the said sale in respect of those 4 bigha, 19 Khatha, 5 Chitak of land (approx) in favour of the said Purchaser, so that the purchaser may get the conveyance in respect of the said property.

e) An order be made to the court liquidator to supervise the property and fourth with confirm the registered Deed of Conveyance office of the Additional Registrar of Assurance (A.R.A.) Calcutta.

f) An order be made that the payment of the amount assessed as due to the occupier as per the decree passed in Suit No. 4240 of 1951.

g) That unless appropriate order as prayed for is made the petitioner abovenamed shall suffer irreparable loss and injury and shall be highly prejudice.”

The applicant contends as follows. The Berhampore Bank Limited (in liquidation) through its Court Liquidator filed a suit being Suit No.4240 of 1951 before the Sub-ordinate Judge, Murshidabad contending *inter alia* that one Ram Ranjan Chowdhury on 29th November, 1949 executed a mortgage in favour of the plaintiff bank in respect of certain properties belonging to him situated at Mouza–Boiragachi, P. S. Berhampore, District–Murshidabad, West Bengal for obtaining a loan of a sum of Rs.72,000/- . A preliminary decree was passed on 15th January, 1954 for a sum of Rs.1,13,071.98/- with interest thereon at the rate of 6% per annum until realization. A final decree was passed on 7th August, 1956 in terms of the preliminary decree. On 17th December, 1954 High Court Liquidator was appointed Receiver over the mortgaged properties with right to sell the properties. However, the sale as scheduled could not be held due to various applications filed by the judgment debtor and his legal heirs from time to time. Pursuant to the applications filed by the Court Liquidator, the entire proceeding was transferred to the High Court at Calcutta. On 9th June, 1989 an order was passed by a Co-ordinate Bench of this Court granting liberty to the person in occupation of the land of the judgment-debtor to purchase the portion in occupation at a rate of Rs.400/- per bigha. Pursuant thereto several other applications were filed and orders have been passed by this Court directing for purchase by the occupant. The present

applicant is also an occupant of a portion of the land in question. Accordingly, the applicant has sought for necessary order for purchase of the portion of the property in his occupation.

By order dated 1st March, 2024 the Court Liquidator was directed by a Co-ordinate Bench to furnish report. On perusal of the report of the Court Liquidator since it was found that the plots in question i.e. 1341, 1343, 1383, 1180, 1034 and portion of 1352 were recorded in the name of the Collector on behalf of Government of West Bengal, by order dated 25th June, 2024 State of West Bengal was impleaded as a necessary party. Thereafter by order dated 1st August, 2024 the State was directed to furnish report. In compliance thereof, on 5th September, 2024, a report was furnished by the State-respondents.

Ms. Noelle Banerjee, learned advocate representing the State indicates that as per report, the land-in-question is vested with the State of West Bengal and, therefore, the prayer sought for to purchase the property is not at all sustainable.

Mr. Souri Ghosal, learned advocate for the applicant, on the contrary, submits that the vesting is bad since the property was mortgaged to the bank and at the time of vesting, the land was mortgaged with the bank and thus such vesting should be declared null and void.

The report furnished by the State of West Bengal records that the land comprised within L.R. Plot Nos. 1341, 1343, 1383, 1180, 1034 and 1352 is recorded in the name of Collector on behalf of Government of West Bengal with full share and area in K. B. Khatian no.1 and from RS record it is evident that the suit plots are included in the vested schedule of the BR Case No.34 of 1968 and the land is vested to the State free from all

encumbrances. The applicant has filed his exception to the said report contending that the vesting of the land comprised within plot nos. 1341, 1343, 1383, 1180, 1034 and 1352 within Mouza–Boiragachi, P. S. Berhampore, District–Murshidabad is bad for the reason that at the time of vesting the land did not belong to the erstwhile owner Ram Ranjan Chowdhury and therefore, the vesting is an outcome of ignorance and inaction on the part of the State. Further the vesting has been done in contravention of sale orders of this Hon'ble Court. It is also contended that the vesting is required to be declared as null and void and record of rights in favour of the State of West Bengal are required to be cancelled by an appropriate order of this Court. Considering such contention of the applicant, there cannot be any quarrel that there has been vesting of the land in question to the State of West Bengal. Even if the contention of the applicant is presumed to be correct regarding the vesting being bad in law, this Court is not the appropriate forum to enquiry and decide the correctness of such vesting and pass orders for correction of record of rights.

Since the aforementioned land has vested with the State of West Bengal, the prayer of the applicant for purchase of a portion of the property in his occupation falls short of merit and cannot be allowed.

Accordingly, GA-COM 10 of 2024 stands dismissed.

(BIVAS PATTANAYAK, J.)