

Bharat Veerangana Avantibai ... vs Kotak Mahindra Bank Ltd & Anr on 18 December, 2023

Author: Purushaindra Kumar Kaurav

Bench: Purushaindra Kumar Kaurav

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 15480/2023 and CM APPL. 62059/20

BHARAT VEERANGANA
SANSTHAN & ORS.

KOTAK MAHINDRA BANK LTD & ANR.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

% 18.12.2023

1. The petitioners, vide the instant writ petition have prayed for the following reliefs:-

"(i) Issue a writ or order or direction of or in the nature of mandamus directing Respondent No. 1 to declassify the Petitioners' two accounts 1811762651 (OD facility) and LAP18023813, which stand illegally classified as NPA;

(ii) Issue a writ or order or direction of or in the nature of mandamus directing Respondent No. 1 to forthwith issue NOC / letter of no-

objection for foreclosure of loans provided to the Petitioners vide its two accounts 1811762651 (OD facility) and LAP18023813;

(iii) Issue a writ or order or direction of or in the nature of mandamus directing Respondent No. 1 to not take any steps to execute or benefit from Order dated 03.08.2023 (signed on 23.08.2023) of Chief Judicial Magistrate Gautam Budh Nagar (U.P.) in relation to Petitioners' Plot No. 9 admeasuring 10057-09 sq. mtrs. in Knowledge Park 3, Greater Noida Institutional Development Area, District Gautam Budh Nagar, Uttar Pradesh 201308;

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(iv) In the alternative to prayer (iii), quash Order dated 03.08.2023 (signed on 23.08.2023) of Chief Judicial Magistrate Gautam Budh Nagar (U.P.) in relation to Petitioners' Plot No. 9 admeasuring 10057-09 sq. mtrs. in Knowledge Park 3, Greater Noida Institutional Development Area, District Gautam Budh Nagar, Uttar Pradesh 201308;

(v) Issue a writ or order or direction of or in the nature of mandamus directing Respondent No. 1 to allow time of 4 months, or such other time as this Hon'ble Court may deem fit, to undo the effect of fraud played by Respondent No. 1 and enable the Petitioners to arrange financing and make pre-payment for foreclosure."

2. It is undisputed that against the order dated 10.11.2023, an appeal would lie under Section 18(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act, 2002).

3. Learned senior counsel appearing on behalf of the petitioners, however, submits that on account of dire financial conditions of the petitioners, the petitioners are unable to meet the pre-deposit condition.

4. Needless to state that by no plausible stretch of imagination, the aforesaid submission can be the reason to invoke the extraordinary discretionary jurisdiction of this Court under Article 226 of the Constitution of India. Therefore, this Court is not inclined to entertain the instant writ petition. The same is dismissed along with the pending application(s), if any.

PURUSHAINDRA KUMAR KAURAV, J DECEMBER 18, 2023 nc/am This is a digitally signed order.

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