

Case No :WP(C) 0000432/2015

Party Name : CHITTARANJAN DEBNATH & ANR Vs UNITED BANK OF INDIA & ORS

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA THE HONBLE MR. JUSTICE S.TALAPATRA

By means of this petition the petitioner had challenged the possession notice dated 11th June, 2015 published on 12th June, 2015 in Syandan Patrika as well as vacation notice dated 22nd August, 2015 by which the petitioner were directed to vacate the following properties:

Sl. No.	Description of the properties		
1	Land & Building located at Chhinaihani, P.S. Airport, Dist- West Tripura	Deed No.	1-10506 Dated 15.09.2005
		Khatian No.	600
		Dag No.	7550 (Hal)
		Area measuring	0.12 Acres
		Mouja	Singerbill, Tahasil- Lankamura
2	Land & Building located at Chhinaihani, P.S. Airport, Dist- West Tripura	Deed No.	1-8094 Dated 07.12.2007
		Khatian No.	1650
		Dag No.	7564,7565,7566 (Hal)
		Area measuring	0.060 Acres
		Mouja	Singerbill, Tahasil - Lankamura
3	Land & Building located at Chhinaihani, P.S. Airport, Dist- West Tripura	Allotment Order No.	1-3046/83 Dated 01.08.1983
		Khatian No.	1650
		Dag No.	7564,7565,7566 (Hal)
		Area measuring	36 Gandas i.e 31104 Sq ft
		Mouja	Singerbill, Tahasil - Lankamura

The case of the petitioner was that though the first two properties were mortgaged with the Bank, the third property was not mortgaged with the Bank. Accepting the statement of the petitioner to be correct, we had granted stay with regard to the property No.3 as under:

Sl. No.	Description of the properties		
3	Land & Building located at Chhinaihani, P.S. Airport, Dist- West Tripura	Allotment Order No.	1-3046/83 Dated 01.08.1983
		Khatian No.	1650
		Dag No.	7564,7565,7566 (Hal)
		Area measuring	36 Gandas i.e 31104 Sq ft
		Mouja	Singerbill, Tahasil - Lankamura

Thereafter the bank filed a reply and it was pointed out to us that in fact the petitioner had prayed for enhancement of the cash credit limit and in consideration of grant of such enhancement of cash credit limit, the petitioner had initially agreed to mortgage this 3rd property and the allotment letter of this 3rd property was filed with the bank and the bank treated it as a equitable mortgage. However, later it was discovered that what had been filed was not the original allotment letter but a photocopy of the letter and thereafter the petitioner was told to either settle the amount or to give additional security. The petitioner has not disputed this fact. We are constrained to observe that the petitioner while approaching this Court did not inform this Court that he had entered into an equitable mortgage with regard to his 3rd property even though that mortgage may not have been a legal mortgage. It is more than obvious that the petitioner has been trying to play hide and seek with the Court. We were informed by the petitioner that he had deposited a sum of Rs.50,00,000/- with the Purbachal Branch, Salt Lake, Kolkata of the United Bank of India. On 08.02.2016 the Manager of the United Bank of India, Usha Bazar, Agartala who was present in person stated that the cheque had not been cleared. Thereafter, we were informed by Sri A. Roy Barman on 15.02.2016 that the cheque which was issued by the petitioner was not cleared because the account was closed. At that stage, learned counsel for the petitioner had informed the Court that the account of the petitioner has been closed by the United Bank of India and not by the Standard Chartered Bank on which bank the cheque/draft had been issued.

We therefore, directed the petitioner produce a bank draft/bankers cheque in the sum of Rs.42,00,000/- since that was the amount which the bank was claiming. We further directed that this bankers cheque or draft be made payable in favour of the United Bank of India at Agartala. Thereafter the case was listed on 22nd February, 2016 and Mr. D. Sarma, learned counsel for the petitioner had stated before us that petitioner had sent his son to Kolkata to get the demand draft prepared and he had requested for one week further time to do the needful. We had made it clear that if the demand draft is not produced before us on the next date i.e. 29th February, 2016 the petition shall be dismissed.

Today, Mr. D. Sharma, learned counsel for the petitioner informed us that his client is unable to arrange the money for preparation of the draft. This clearly shows that when the cheque for fifty lakhs was issued the petitioner had no money to honour that cheque. It is more than obvious that the petitioner was tried to hoodwink the Court into granting a stay order in favour of the petitioner by informing the Court that it is paying off the entire amount. This sort of practice cannot be encouraged at all.

We, therefore, dismiss the petition with costs of Rs.50,000/- which the bank may recover in accordance with law.