

(2009) 08 CAL CK 0003
In the Calcutta High Court
Case No : Writ Petition No. 485 of 2009

M/s. Devi Ispat Limited and Another	APPELLANT
Vs	
The Central Bank of India and Others	RESPONDENT

Date of Decision : 24-08-2009

Acts Referred:

Constitution of India, 1950 — Article 12
Contract Act, 1872 — Section 171

Citation : 114 CWN 24

Hon'ble Judges : Sanjib Banerjee, J

Bench : Single Bench

Advocate : S.K. Kapur, S.N. Mukherjee, K. Biswanathan, Jishnu Saha, Vipul Kundalia, Sonal Sahu and Kushagra Saha, for the Appellant; Tilak Bose, Debdatta Sen, D.D. De and A.K. Sen, for the Respondent

Judgement

Sanjib Banerjee, J.—The petitioners question the propriety of the respondent nationalised bank withholding documents of title that the petitioners had furnished for obtaining credit facilities, despite the petitioners having squared up and closed the accounts at the bank's behest. Between September 15, 2008 and April 24, 2009 the bank advised the peititioner company to shift its borrowings to some other bank. The first letter in such regard that the petitioners rely on is one dated March 24, 2009 where the bank complained to the petitioner company that despite its assurance in August, 2008, the company's accounts had not been shifted from the bank. On April 24, 2009 the bank called upon the company to remove its accounts. The insistence on the bank's part appears plain from the letter:

"We had, on several occasions in the past, advised you to arrange for the shifting of your borrowal A/cs to other Bank. However it appears that you have not taken any steps in this regard so far. Our higher authorities have now instructed us; to have discussion with Sri Nirmal Kumar Mandhani, Director of your company about the shifting of the borrowal A/cs and other issues relating to the operation of your borrowal accounts. Further your Director Sri Nirmal Kumar Mandhani is

also required for further discussion with our executives at Zonal office, Kolkata and Central Office with prior appointment.

You are, therefore, requested to arrange for our immediate discussion with your Director, Sri Nirmal Kumar Mandhani, at our office within 2-3 days as the matter is very urgent."

2. By the beginning of May the petitioners caused the accounts to be closed and the company instructed the bank to make over the title deeds to the company's factory premises and other collateral security to the second petitioner. The petitioners rely on the bank statements to demonstrate that the company owed nothing to the bank. On May 12, 2009 the company wrote to both the zonal manager and the branch manager of the bank that the company's borrowals had been taken over by the Chowringhee Branch of State Bank of India. The letter recorded that a banker's cheque for Rs. 15 crore issued by State Bank had been encashed by the respondent bank and appropriated against the company's outstanding balances. The company complained that inspite such adjustments having been completed by May 9, 2009 the title deeds and the customary no-objection and no-dues certificates had not been made over to it by the respondent bank.

3. The petitioners say that the respondent bank was aware that the petitioner company had obtained credit facilities from State Bank to clear off its debt to the respondent bank. They submit that a certificate had been issued by the respondent bank in the company's favour on January 12, 2009, certifying the creditworthiness of the company. The petitioners insist that they could not gauge why the respondent bank retained the title deeds despite having no claims against the company. They refer to the three letters issued in a span of ten days by the company to the bank. The last of such letters of May 16, 2009 complained, "As you are aware and also requested repeatedly by Us, we are yet to receive the above documents inspite of our account being adjusted on 09.05.09.

We refer and enclose herewith the copy of your last Branch letter No. AGM/88/09-10/70 DATED 24.04.09 wherein it is clearly specified to shift our account to some other bank.

Since now we have shifted, you are not handing over the above documents to us and delaying such handing over by stating -that you are yet to receive consent from Central Office at Mumbai.

Your above Branch letter can only be written to us after having such consent from Central Office/Zonal Office. We understand that delay in handing over the documents is intentional and deliberate.

We request you to immediately handover our above requested and required documents."

4. A further demand for the return of the security documents was made on the

petitioners" behalf on May 22, 2009 before these proceedings were instituted during the summer vacation. On June 3, 2009 the Vacation Bench directed affidavits to be filed. The bank's first affidavit of June 8, 2009 announced that "the petitioner company has cleared all its dues that were shown due and payable in their accounts maintained with the Burrabazar Branch of the. Central Bank other than the Letter of Credit." The bank claimed that since the liability of the bank under the revolving letter of credit was still alive when the petitioner company had sought the return of its security documents, the bank had retained the same. At paragraph 12 of the bank's first affidavit, it claimed that its Burrabazar branch had extended banking facilities to one Rajco Steel Enterprises which was a partnership firm. The bank claimed that Rajco had fraudulently siphoned out substantial sums from the bank to the accounts of other constituents of the bank maintained at various branches. The bank averred that it caused an investigation to be conducted whereupon it transpired that a "huge amount was siphoned out from the account of Rajco Steel to the account of petitioner no. 1." The affidavit informed that the bank had lodged a complaint with the Central Bureau of Investigation on March 14, 2009 and had commissioned a special audit to ascertain the extent of the fraud. The bank referred to the report of the special audit released on April 2, 2009 that revealed that the petitioner company "was also involved in fraudulent transaction of Rajco Steel." At the time that the affidavit was filed, the bank claimed that it was in the process of initiating recovery proceedings against Rajco and its associates concerns in whose accounts money had been lodged. The affidavit contended that if the bank was required to release the securities furnished by the petitioner company it would suffer serious prejudice.

5. In a subsequent supplementary affidavit used by the bank it has disclosed a letter dated July 6, 2009 issued to the petitioner company alleging, inter alia, as follows:

"M/s. Rajco. Steel Enterprises (RSE), one of our constituents, was also enjoying certain facilities with our branch which was to your knowledge RSE had also opened the account with our Red Cross Place Branch which was also to your knowledge.

In sometime past, it transpired that RSE with connivance and collusion with several other persons inside and outside the bank including yourself have siphoned out huge amount from the bank by perpetrating fraud.

During course of an enquiry conducted by the bank about above fraudulent transactions, it transpired that the amount siphoned by the RSE from their account with our Burrabazar Branch and Redcross Place Branch was passed on to your above account to reduce your liability in the above Cash Credit (Hypothecation) account.

As the cheques issued by RSE out of the funds siphoned- out from the bank was deposited and credited to your account, your liability has been reduced due to

the fraud" perpetrated by you also in collusion and connivance with RSE, its partners and others. You are not legally entitled for those fraudulent credits given in your above account and as such you are in fact liable to pay the amount for which you got the credit through fraudulent means.

On enquiry it transpired that a sum of Rs. 748.50 lacs has been credited to your above Cash Credit (Hypothecation) account to reduce the liability which was really the fund siphoned out from the bank fraudulently by RSE in collusion and conspiracy with you and others.

Therefore, you are still liable to pay to the bank a sum of Rs. 748.50 lacs as on today for which you are not entitled to the credits given in your account.

We, therefore, call upon you to pay the sum of Rs. 748.50 lacs immediately on receipt of this letter failing which we shall not only charge interest on the said amount @BPLR+4% (at present 16%) per annum failing which will have no other alternative but to take appropriate legal action."

6. The petitioners say that if the bank was aware in February, 2009 that a fraud had been perpetrated by Rajco and if the bank suspected the petitioners' complicity therein, the bank ought first to have recalled the creditworthiness certificate issued on January 12, 2009 to a fellow nationalised bank. The petitioners assert that the bank did not inform the petitioners prior to the institution of the proceedings that it had any reason to suspect any foul play on the petitioners' part.

7. Though it appears odd that the petitioner company did not question the bank's diktat for the company to remove its accounts therefrom, it is also evident that there was no contemporaneous assertion made by the bank of the petitioners' complicity in the alleged fraud said to have been perpetrated by Rajco. There was no reply by the bank to any of the letters issued by or on behalf of the petitioners between May 6 and May 22, 2009.

8. The bank now relies on its special audit report to say that the company has been indicted therein. The report suggests that the petitioner company and another company allegedly used as a conduit in Rajco's scheme to siphon off funds are managed by the same Gupta family. The report complains of two senior officials of the bank being involved in the alleged scam. The bank states that one of the tainted officers had issued the certificate on behalf of the bank vouching for the credit of the company.

9. The bank relies on Section 171 of the Contract Act, 1872 in support of its conduct. It says that though in deference to the pending proceedings it has not debited the accounts of the company by the amount that had been fraudulently withdrawn from the bank by Rajco and its accomplices including the petitioner company, the bank was entitled to withhold the title deeds in exercise of its lien as a banker recognised by the provision.

10. The petitioners insist that this bank has no right of the kind that it canvasses

u/s 171 of the Act. They suggest that neither precondition to the entitlement to the lien under the said provision is met by the bank. The petitioners bring high authorities to assert that the expression "general balance of account" in Section 171 would imply an immediate right to receive payment. They say that the second precondition to invocation of Section 171 would be the absence of an express or implied contract to return the goods covered by the section. They submit that in the bank's offer to the company to remove its accounts and the bank's receipt of the entire sum due in the accounts, there is an implied contract to not retain the title deeds. It is also the undisputed position that in course of these proceedings the bank has been absolved of its liability under the letter of credit upon the same being taken over by State Bank.

11. The petitioners say that the respondent bank's conduct is unbecoming of a nationalised bank and an instrumentality of the State. They say that the bank induced the petitioners to adopt a course of action on the premise that the title deeds would be returned upon the accounts being squared up. They assert that the respondent bank was aware that the company was in negotiation with State Bank and it was incumbent on the company to deposit the title deeds to obtain credit facilities from State Bank. -The petitioners refer to the respondent bank having received a cheque for Rs.15 crore directly from the State Bank and being aware, therefore, that the title deeds were required to be made over to the other bank. They claim that the respondent bank is a trustee in possession of the title deeds for the benefit of another nationalised bank. They question the motive of the respondent bank in inducing State Bank to part with public funds in a premeditated scheme to cause double jeopardy to the company. The petitioners lament that they now have two sets of creditors without adequate security to meet either since the respondent bank has arbitrarily foisted Rajco's alleged liability on the petitioner company and they are hounded by State Bank upon their failure to deposit the title deeds with such bank.

12. The petitioners say that quite apart from the principles of promissory estoppel or legitimate expectation that they can invoke to seek immediate return of the title deeds from the bank, good conscience and equity would demand that this nationalised bank is commanded to make over the title deeds forthwith, if not to the company, directly to State Bank.

13. The legal issue hinges on the scope of Section 171 of the Contract Act and the bank's rights thereunder:

"171. General lien of bankers, factors, wharfingers, attorneys and policy-brokers.- Bankers, factors, wharfingers, attorneys of a High Court and policy-brokers may, in the absence of a contract to the contrary, retain as a security for a general balance of account, any goods bailed to them; but no other persons have a right to retain, as a security for such balance, goods bailed to them, unless there is an express contract to that effect."

14. The petitioners rely on an unreported judgment of this Court in WP No. 1392

of 1996 (Mangal Finance Ltd. & Anr. vs. United Bank of India) delivered on August 20, 1996 and the following passage therefrom :

"It is clear from the allegations that the respondent bank has not claimed any present right against the petitioner company. The claim of the bank are contingent upon the result of the investigation which may or may not establish the suspicion of the bank of the petitioner No. 1's involvement in the siphoning of funds against the resulting loss to the respondent No. 1. Even the connivance and collaboration between the petitioner no. 1's directors and M.N. Ghosh is suspected.

Assuming the directors of the petitioner no. 1 are involved in the fraud, the Respondent has three further hurdles to overcome before proceeding against the petitioner no. 1 namely; (1) that the loss suffered by the bank was occasioned by the directors of the petitioner No. 1; (2) the identification of the petitioner No. 1 which is a public company with its directors; (See: M/s. Gupta Biscuits (P) Ltd. vs. United Commercial Bank & Ors. : 1987(2) CLJ 474; Punjab National Bank Ltd. vs. Arura Mal : AIR 1960 P&H. 633 (DB)); and (3) the right to recover such loss from the petitioner No. 1 from the credit balance of the petitioner No. 1's account.

The respondent is still at the first hurdle. The matter is under investigation. It is not as if any investigating agency has directed the Bank to stop operation of accounts and in any event it is not shown how the operation of the accounts will hamper the investigation.

For all these reasons it must be held that the action of the respondent in stopping operation of the accounts of the petitioner no. 1 at this stage is arbitrary and the decision to do so is quashed."

15. In Mangal Finance there was no lien that the bank therein had sought to exercise. The bank there had asserted a right to combine accounts by claiming that the further operation of the petitioner company's account could be stopped on the bank's perception that the directors of the petitioner company were closely linked to a person who had allegedly defrauded the bank.

16. In the judgment reported at 1987(2) CalLJ 474 (M/s. Gupta Biscuits (P) Ltd. vs. United Commercial Bank & Anr.) which the petitioners cite, the issue involved was whether the bank could refuse to honour cheques issued by the petitioner company having sufficient balance to its credit on account of another concern with which the directors of the company were associated had failed to repay money due to the bank.

17. A judgment reported at The Board of Trustees of The Port of Bombay and Others Vs. M/s Sriyanesh Knitters, is next brought by the petitioners to suggest that the amount claimed had to be legally due. A passage from paragraph 17 of the report is placed :

"17.... This section is in two parts. The first part gives statutory right of lien to

four categories only, namely, bankers, factors, wharfingers and attorneys of High Court and policy-brokers subject to their contracting out of Section 171. The second part of Section 171 applies to persons other than the aforesaid five categories and to them Section 171 does not give a statutory right of lien. It provides that they will have no right to retain as securities goods bailed to them unless there is an express contract to that effect. Whereas in respect of the first category of persons mentioned in Section 171 the section itself enables them to retain the goods as security in the absence of a contract to the contrary but in respect of any other person to whom goods are bailed the right of retaining them as securities can be exercised only if there is an express contract to that effect."

18. The petitioners have referred to Paget's Law of Banking (12th Ed.) and Halsbury's Laws of England (4th Ed.), volume 3 to demonstrate the extent of a banker's right to exercise lien.

19. The petitioners have relied on a judgment reported at (1843-1860) All ER Rep 719 (Brandao vs. Barnett & Ors.) which has been quoted with approval in a number of Supreme Court judgments. The petitioners submit that even an implied contract to the contrary would prohibit a bank from exercising its lien over goods bailed to it. The following passage is relevant:

"... Bankers, most undoubtedly, have a general lien on all securities deposited with them, as bankers, by a customer, unless there be an express contract, or circumstances that show an implied contract, inconsistent with lien. LORD KENYON says in Davis vs. Bowsher [(1794), 5 Term Rep. 488]:

"Bankers have a general lien on all securities in their hands, for their general balance, unless there be evidence to show that any particular security was received under special circumstances which would take it out of the common rule."

20. And LORD DENMAN, in pronouncing judgment in the present case in the Exchequer Chamber, says:

"If, indeed, there had been an agreement, express or implied, inconsistent with a right of lien - as, to return them absolutely, at all events, to the depositor, at a certain time - the case would have been different."

21. The judgment reported at Syndicate Bank Vs. Vijay Kumar and others, is cited and the following passage from paragraph 6 of the report is placed by the petitioners in support of their contention that the law is not different in this country :

"6.... In Paget's Law of Banking, 8th Edn., p. 498 a passage reads as under:

"The Banker's Lien

Apart from any specific security, the banker can look to his general lien as a protection against loss on loan or overdraft or other credit facility. The general lien of bankers is part of law merchant and judicially recognised as such."

In *Brandao vs. Barnett*, it was stated as under: (All ER p. 722-H) "Bankers, most undoubtedly, have a general lien on all securities deposited with them, as bankers, by a customer, unless there be an express contract, or circumstances that show an implied contract, inconsistent with lien."

The above passages go to show that by mercantile system the Bank has a general lien over all forms of securities or negotiable instruments deposited by or on behalf of the customer in the ordinary course of banking business and that the general lien is a valuable right of the banker judicially recognised and in the absence of an agreement to the contrary, a Banker has a general lien over such securities or bills received from a customer in the ordinary course of banking business and has a right to use the proceeds in respect of any balance that may be due from the customer by way of reduction of customer's debit balance. Such a lien is also applicable to negotiable instruments including FDRs which are remitted to the Bank by the customer for the purpose of collection. There is no gainsaying that such a lien extends to FDRs also which are deposited by the customer."

22. The petitioners have also relied on a judgment reported at *Alekha Sahoo Vs. Puri Urban Co-operative Bank Ltd. and Others*, and have placed the following passage from paragraph 11 of the report:

"11.... But as we have discussed above, courts in England and in India have held that the Bank can exercise general lien over the properties of a customer for the general, balance in such customer's account and not for the general balance of some other customer's account. Unless therefore a customer has expressly agreed that his properties can be retained as security for the outstanding balance in the account of some other customer, a Bank cannot exercise lien over the properties of such customer u/s 171 of the Contract Act. In the guarantee agreement executed by the petitioner for the cash credit account of M/s. Bimala Bhandar, a copy of which has been annexed to the counter-affidavit as Annexure - R/2, there is no such provision that the Bank can retain the properties of the petitioner as security for the outstanding balance in the loan account of M/s. Bimala Bhandar. In fact, the Bank has also not relied on any such provision"* in the guarantee agreement and instead has relied on the bye-laws of the Bank and the general lien of the Bank as provided in Section 171 of the Contract Act. As we have seen, the Bank has no such right under the bye-laws or Section 171 of the Contract Act to retain the gold ornaments of the petitioner as security for the outstanding balance in the loan account of M/s. Bimala Bhandar."

23. A judgment reported at AIR 2006 PM 73 (*M/s. Jay Kay Synthetics vs. Punjab Financial Corporation, Chandigarh & Anr.*) is next placed and paragraph 10 of the report is relied on:

"10. The petitioner has availed financial assistance by virtue of an agreement and has deposited title deeds towards the security for the repayment of the said financial assistance. Once all the dues of the Corporation arising out of the said

agreement providing financial assistance has been paid, the action of the Corporation in not returning title deeds is an abuse of their dominant position. It could not be shown that the properties of the firm or its partners were pledged by the directors of Roses Floriculture as collateral securities for repayment of the loan availed by the Roses Floriculture Ltd. In the absence of any such collateral security or charge of any kind, the action of the Corporation in not returning the title deeds is nothing but an abuse of the powers vested in the said Corporation. The borrower has paid the entire dues, and therefore, was entitled to the return of the title deeds and no dues certificate with due despatch. The Corporation has failed to act with due diligence causing avoidable harassment to the petitioner. The respondent Corporation has retained the title deeds almost for a period of 2 years even after the amount due was paid to the Corporation. The action of the Corporation in not returning the title deeds is wholly arbitrary, unreasonable and without any legal sanction."

24. The bank says that in respect of a contractual right the Court should not usually interfere in this jurisdiction. A judgment reported at (2008)12 SCC 541 (Indian Bank vs. Godhara Nagrik Coop. Credit Society Ltd.) is relied upon in such context. Paragraphs 12 and 35 and a passage from paragraph 46 of the report are apposite :

"12. The propositions of law which are undisputed are:

(1) Writ petitions against the banks being "State" within the meaning of Article 12 of the Constitution of India were maintainable;

(ii) Writ petitions involving serious disputed questions of fact, ordinarily should not be entertained although the High Court in some cases may enter into disputed questions of fact."

"35. A writ court exercising the power of judicial review has a limited jurisdiction. A writ petition would lie against "State" within the meaning of Article 12 of the Constitution of India. Indisputably, exercise of jurisdiction by the High Court is permissible in a case where action of the State is found to be unfair, unreasonable or arbitrary. The question which should have been posed by the High Court was as to whether the action of the banks was so arbitrary so as to invoke the public law jurisdiction. If the answer to the said question was to be in the negative, the High Court should have refused to exercise its jurisdiction."

"46.... We think that the appellant Bank being "State" within the meaning of Article 12 of the Constitution of India with the assistance of officer(s) of the Central Bureau of Investigation should make all attempts to ascertain as to which of the cooperative societies/cooperative banks are in no way involved with the scam, and subject to such precautions as may be found necessary to be taken, release the amount in their favour."

25. The parties have also placed a judgment reported at (1979) 2 LLR 142 (Siebe Gorman & Co. Ltd. vs. Barclays Bank Ltd.) and a judgment of a learned Single

Judge reported at Gour Nitye Tea and Industries Ltd. and Another Vs. The Central Bank of India and Others, and the appeal therefrom reported at Central Bank of India and Others Vs. Gour Nitya and Industries Ltd. and Others, .

26. Section 171 of the Contract Act recognises a special right of the five classes of persons referred to in the opening words specified therein. Such five classes of persons are conferred a right to retain any goods bailed to them subject to the two conditions that there must be no contract to the contrary and that the goods may be retained as a security for a general balance of account. Other bailees are not granted any statutory right to retain the goods bailed to them though the section recognises that there might be express contracts entitling such other bailees to retain the goods. A general lien is the right to retain the property of another for a general balance of account. The word "lien" apparently means "binding" and is derived from the Latin ligamen. Its lexical meaning is "the right to retain."

27. Lien is understood to be a right of defence and not a right of action. Since it is a right of defence, a creditor may exercise such right for obtaining satisfaction of the debt though an action to enforce the debt may be time-barred. In case of a banker's lien it is confined to the securities and properties in the custody of a banker and in respect of goods that belong to the customer and is held by the bank as security. The security may have been furnished in respect of one account but the banker's common law right of combining accounts may permit the banker to retain the security to secure the payment of the debt due from the same customer in respect of another account.

28. The bank here says that it is only because of the pending court proceedings that the bank had not debited the account of the petitioner company to the extent that the bank found that the petitioner company had received monies from Rajco. The bank agrees with the petitioners that the claim in respect of which a lien is exercised has to be a present claim, but disagrees with the petitioners' suggestion that the claim has to be in respect of an ascertainable amount. The petitioners suggest that, at the highest, the bank's claim here against the petitioner company would be one of damages and no lien can be exercised in furtherance of a demand for unliquidated damages. The bank questions such legal proposition on the ground that a wharfinger may claim on account of demurrage that, by its very nature, is a claim in damages.

29. There may not be any need to address the issue as to whether a lien may be exercised only in respect of an ascertained amount. It appears, however, that the section supports the exercise of a lien by a banker for a general balance of account. As long as a banker shows something due from the constituent by way of general balance of account, the banker may retain the goods bailed to it as security.

30. There is the other condition for exercising the right recognised in Section 171 of the Contract Act that the parties have debated on. The petitioners have

brought high authorities to suggest that even an implied contract to the contrary may be cited by a constituent to deny the lien sought to be exercised by a banker. The bank argues that the contract envisaged by the expression "in the absence of contract to the contrary", is a contract at the inception; as in the agreement between the banker and the constituent at the time that the security was furnished. Again, an answer on such question may be unnecessary in the present context.

31. At the time that the respondent bank last wrote to the petitioner company for it to remove its borrowal accounts from the bank, it was aware of the alleged fraud having been perpetrated by Rajco. By the time that the company caused the cheque for Rs. 15 crore to be deposited with the respondent bank by State Bank, the bank had the report of the special audit that it had commissioned. It is also not the bank's case that it was not aware by then that one of its officers had certified the creditworthiness of the petitioner company on behalf of the bank in a letter issued to State Bank. Yet, it does not appear from the contemporaneous correspondence or the bank's affidavits that the bank recalled its letter issued to State Bank or otherwise made State Bank aware of the bank's suspicion that the petitioner company was a party to the alleged fraud perpetrated on it by Rajco. The bank did not inform the petitioners of the bank's suspicion. The bank permitted its certificate issued by an alleged tainted officer to be relied upon by another nationalised bank, it received the payment on behalf of the petitioner company from State Bank and, prior to the institution of the proceedings, did not assert the lien that it now claims.

32. In the bank inducing the petitioner company to remove its borrowal accounts without alleging any wrongdoing on the company's part and in the bank receiving the payment and obtaining the benefit of having all its accounts in respect of the petitioner company squared up without so much as a whisper of its suspicion of the company's complicity in the alleged fraud, it forfeited, by its conduct, any right to exercise the lien on the documents of title that the petitioner company had deposited for obtaining the credit facilities.

33. The admitted position is that immediately upon the receipt of the cheque for Rs. 15 crore from State Bank, the bank's statements of accounts furnished to the petitioner company revealed that no further amounts remained outstanding therein. With the bank's liability in respect of the revolving letter of credit also having been taken over subsequently by State Bank, there was no amount due from the petitioner company to the bank in the general balance of account for the bank to exercise any lien in respect of title deeds. It is not necessary to give the bank's conduct any name once it is found that the bank had acted arbitrarily and unreasonably in retaining the title deeds despite there being no immediate debt due from the company.

34. It is made clear that the allegations levelled by the bank that the petitioner company and its officers were party to the alleged fraud perpetrated by Rajco and the petitioners' denial thereof have not been gone into.

35. WP No. 485 of 2009 succeeds. A writ of mandamus do issue commanding the "respondent bank to forthwith return the title deeds deposited by the petitioner company to such company. There will be no order as to costs. Urgent certified photostat copies of this judgment, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

Later:

The respondent bank seeks a stay of the operation of the order which is declined.