(2013) 09 DEL CK 0267

In the Delhi High Court

Case No : Writ Petition (C) 1541 of 2013

M/s. Paras Lubricants Ltd. APPELLANT

Vs

Oriental Bank of Commerce and Another RESPONDENT

Date of Decision : 27-09-2013

Acts Referred:

Citation : (2013) 09 DEL CK 0267

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Dinesh Singh Chaudhary, for the Appellant; S.A. Khan, for the Respondent

Final Decision : Disposed Off

Judgement

G.P. Mittal, J.—By virtue of this writ petition, the Petitioner seeks release of the Title Deeds in respect of the following properties:-

(i) Property bearing No. B-382, Meera Bagh, Delhi standing in the name of Smt. Santosh Kumari.

(ii) Property situated at Khasra No. 299, Village Mukhmelpur, Delhi standing in the name of Smt. Saroj Bansal and Smt. Suman Bansal.

(iii) Property situated at Survey No. 57/1, Village Dunetha, Nani Daman (U.T.) belonging to the Petitioner.

(iv) Property situated at 14-17, KIDC, Village Dheku, Tehsil Khalapur, Khapoli, Distt. Raigarh, Maharashtra standing in the name of Petitioner.

(v) Property bearing No. B-482, Meera Bagh, Outer Ring Road, Delhi standing in the name of Shri Devender Pal and Shri Saminder Pal.

(vi) Property situated at Khasra No. 1242, Village Tikri Kalan, Delhi standing in the name of Shri Devender Pal and Shri Saminder Pal.

The case of the Petitioner is that the Petitioner is a limited company engaged in the business of manufacturing and sale of various kinds of lubricants and allied products. The Petitioner obtained certain loan facilities from Respondent No. 2 Oriental Bank of Commerce (the Bank), which has its head office at E-Block, Harsha Bhawan, Connaught Place, New Delhi. To secure the said loan facility, the Petitioner was required by the Bank to procure certain personal guarantee and to deposit original Title Deeds of immoveable properties. The grievance of the Petitioner is that although the loan amount has since been cleared by the Petitioner, yet, the Bank has failed to return the title deeds of the earlier said properties to the Petitioner. The Petitioner further refers to a settlement dated 14.03.2009 whereby also the Bank undertook to return the title deeds.

2. In the counter affidavit filed by the Respondent Bank, it is not disputed that the entire loan amount for which the title deeds in respect of above stated properties were deposited was cleared by the Petitioner. Referring to the settlement dated 14.03.2009, it is stated that since all the clauses of the settlement have not been satisfied, the Respondent Bank has not returned the title deeds.

3. It is urged by the learned counsel for the Respondent Bank that the title deeds in respect of properties mentioned at serial No. (v) and (vi) above have been seized by the police in connection with investigation of a case FIR No. 513/2007 registered at Police Station Ashok Vihar. Rest of the Title Deeds have not been returned by the Bank as one of the conditions of the settlement dated 14.03.2009 was that all the suits and actions against the employees of the Bank were to be withdrawn by the Petitioner and all the parties.

4. The learned counsel for the Bank argues that FIR No. 513/2007 has been registered against the Branch Manager of the respondent Bank and therefore, unless this FIR is quashed, the Bank is under no obligation to return the Title Deeds.

5. On the other hand, the learned counsel for the Petitioner submits that the earlier mentioned FIR was registered on the complaint of one Devender Pal who, inter alia, alleged that the equitable mortgage in respect of some of the properties was created by his real brother Saminder Pal and his sister''s husband Paras Kumar Bansal in collusion with S.N. Marwah, Chief Manager of the Respondent Bank. The quashing of the FIR is not within the power of the Petitioner as it can only be at the instance of the Complainant.

6. It is not disputed by the learned counsel for the Respondent that the documents in respect of above stated properties were deposited by the Petitioner for securing the loan and the loan amount has already been returned. It is also stated that since the documents mentioned at serial no. (v) and (vi) above have been seized by the police, the Petitioner presses that writ petition only in respect of title deeds mentioned at serial no. (i) to (iv).

7. Once the loan granted in favour of the Petitioner is paid, the Bank is under an

obligation to return the title deeds of the property for which the charge was created. Thus, non-quashing of the FIR will not stand in the way of the Petitioner in getting the title deeds of the properties mentioned at serial no. (i) to (iv) back once the loan amount is cleared.

8. The Petition is accordingly allowed with the direction to the Respondent Bank to return the title deeds within four weeks of properties mentioned at serial no. (i) to (iv), that is:-

(i) Property bearing No. B-382, Meera Bagh, Delhi standing in the name of Smt. Santosh Kumari,

(ii) Property situated at Khasra No. 299, Village Mukhmelpur, Delhi standing in the name of Smt. Saroj Bansal and Smt. Suman Bansal,

(iii) Property situated at Survey No. 57/1, Village Dunetha, Nani Daman (U.T.) belonging to the Petitioner; and

(iv) Property situated at 14-17, KIDC, Village Dheku, Tehsil Khalapur, Khapoli, Distt. Raigarh, Maharashtra standing in the name of Petitioner.

9. The Respondent Bank is further directed to remove the lien from the record of Registrar of Companies.

10. The writ petition stands disposed of accordingly. A copy of the order shall be given Dasti to the learned counsel for the Respondent Bank to inform the SHO, Police Station Ashok Vihar regarding return of the documents to the Petitioner.