(2014) 07 DEL CK 0128

In the Delhi High Court

Case No : Writ Petition (Civil) No. 4268/2014

Raman Chopra APPELLANT

Vs

Indian Bank RESPONDENT

Date of Decision : 15-07-2014

Acts Referred:
Constitution of India, 1950 — Article 226, 227

Citation : (2014) 07 DEL CK 0128

Hon'ble Judges : V. Kameswar Rao, J;Sanjiv Khanna, J

Bench : Division Bench

Advocate : S.L. Gupta, J.P. Gupta and Virendra Singh, Advocate for the Appellant; Seema Gupta, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J.—We are not inclined to interfere with the impugned order dated 27th June, 2014. The facts of the case are glaring. The respondent bank had filed recovery proceedings under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 in the year 2000. They had prayed for a decree of Rs. 39,16,466.90 with pendente lite and future interest. Before the tribunal the respondent bank had placed on record copy of the guarantee deed executed by Arvind Chopra and Susheela Chopra, brother and mother of the present petitioner. The loan was granted to Suman Chopra wife of Arvind Chopra, i.e., the sister-in-law of the present petitioner. The aforesaid original proceedings were decreed on 16th June, 2003. The judgment records that the respondent bank had placed and proved on record joint and several confirmations of deposit of titled deeds, which may be proved as Exhibit PW-1/10. Exhibit PW-1/10 has not been filed along with the writ petition, but from the papers placed on record, it is apparent that original title papers of property No. 339, Hakikat Nagar, Delhi-9 were furnished to the bank, mortgaging the said property. The respondent had produced one J.P. Solanki, AW-1, who was the Chief Manager and had proved confirmation of equitable mortgage by Susheela Chopra, which was marked, as noticed above, as AW-1/10. Susheela Chopra at that time had also produced and furnished a registered Will of her father Sampuran Singh, dated 2nd April, 1983. As per the said Will, the property stood bequeathed to Susheela Chopra, widow of late Amrit Lal Chopra. The petitioner, it is again noticed is the son of Susheela Chopra and late Amrit Lal Chopra.

2. It is obvious to us that the original Will was furnished and given to the bank at the time of creating equitable mortgage for a specific reason; to show that Susheela Chopra was the owner of the property. This is the inference, which can be drawn. There was no other reason and ground for furnishing the original title deeds and the registered Will.

3. After the original proceedings were decreed on 16th June, 2003, Sampuran Singh, father of Susheela Chopra on 6th January, 2005 filed objections before the recovery officer stating that he was alive and, therefore, the Will dated 2nd April, 1983 was inconsequential as the bequest would operate only upon his death. It is noticeable and apparent that during the proceedings before the Debt Recovery Tribunal from 2000 till 6th January, 2005, Susheela Chopra, Arvind Chopra and Suman Chopra had not taken the said plea or stated that Sampuran Singh was alive. It is also noticeable and accepted that the original documents of the property were furnished to the bank and filed with them along with execution of confirmation documents relating to equitable mortgage. The title documents, it is reasonable to infer, were made available by Sampuran Singh. Further, Sampuran Singh would have known that the original title deeds were not with him. It is not pleaded or stated that the title deeds were stolen or emplaced.

4. On 17th March, 2005, i.e., shortly after filing objections, Sampuran Singh expired. Thereafter, the present petitioner Raman Chopra filed objections and claimed that Sampuran Singh had left behind a Will dated 30th December, 2004 in his favour and this being the last Will, would override the earlier Will dated 2nd April, 1983.

5. We have reproduced the aforesaid facts in some detail as we feel that despite the legal submissions, the present case does not require interference and exercise of our discretionary power under Articles 226 and 227 of the Constitution of India. In the present case, the respondent bank, it is apparent was made to understand that Sampuran Singh was no more and, therefore, original title deeds of the property in favour of Sampuran Singh was deposited by his daughter Susheela Chopra along with the registered Will. Letter of confirmation of mortgage was executed by Susheela Chopra and Arvind Chopra. It is also apparent that the present stand and stance taken by Raman Chopra and the purported Will of Sampuran Singh dated 30th December, 2004 were executed after the decree was passed by the Debt Recovery Tribunal on 16th June, 2003. Thus, the finding of the Debt Recovery Tribunal that the aforesaid affairs appear to be a family matter and collusion between the petitioner and the judgment debtors is apparent and correct. In view the aforesaid factual position and noticing the conduct and the facts on record, we do not think this is a case

which requires interference in exercise of discretionary and equitable jurisdiction under Article 226 of the Constitution. The writ petition is dismissed.

