
(2004) 02 DEL CK 0073

In the Delhi High Court

Case No : Writ Petition (C) No. 2808 of 2001

Texla Towers Ltd.

APPELLANT

Vs

Punjab National Bank and Others

RESPONDENT

Date of Decision : 04-02-2004

Acts Referred:

Citation : (2004) 109 DLT 975

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : A.B. Dial and Navneet Mishra, for the Appellant; R.K. Trakru, for the Respondent

Judgement

Manmohan Sarin, J.

Rule.

With the consent of parties, writ petition is taken up for disposal.

1. The petitioner by this writ petition seeks a writ of mandamus to the respondent-Bank to forthwith return to the petitioner, title deeds of property bearing Plot No. 2, Khasra Nos.1243/741/2 and 1297/1244/1 situated at Bala Saheb Gurudwara, Village Kilokari, New Delhi. Petitioner M/s. Texla Towers Ltd. claim that it stood as a guarantor for a loan from Bank being advanced to respondent No. 2, who was the borrower namely M/s. Bestavision Infotech Ltd.

2. It is not disputed before me that the loan in question of Rs. 1 crore stands fully repaid. Petitioner, claiming to be the owner of the property, sought a direction for return of the title deeds which had been deposited by way of equitable mortgage. Respondents are not willing to return the same.

3. Counsel for respondent submitted that based on the sale deed in respect of property, the owners are Mr. Sukhvinder Singh and Inderjit Singh, while the petitioner's claim that the petitioner-Company is the owner as per the sale deed and other documents executed at the time of grant of the loan. Petitioners

claiming to be owners assert that they are entitled to return of title deeds. Parties had taken me through the documents and I was inclined to dispose of the writ petition. However, I find the respondent No. 1 has filed an OA before the Debt Recovery Tribunal wherein one of the reliefs, as sought in the said OA, is as under:

"(d) It be further declared that the applicant bank has got charge over the immovable property measuring 1152 sq. yards, at plot No. 2, Khasra No. 1243/741/2-1297/1244/1, situated at Bala Sahib Gurdwara, Village Kilokari, New Delhi, of defendant No. 5 in exercise of general lien of bankers."

4. Declaration has been sought with regard to this very property. This is essentially a civil matter wherein the interpretation of the sale deed and other documents which were given for creation of an equitable mortgage is involved. Further the Debt Recovery Tribunal is already seized of it, I do not think this is a case where extraordinary writ jurisdiction ought to be invoked to adjudicate and pronounce upon as to who is the owner of the property. Learned Counsel for petitioner submitted that the Debt Recovery Tribunal may not entertain such an application. The petitioner shall be free to move an application before the Debt Recovery Tribunal for release of the documents on the ground that the loan for which the said documents had been given by way of creation of an equitable mortgage stands discharged. Learned Counsel for respondents states that he would not raise any objections to the jurisdiction and competence of the Tribunal to give such a relief to the petitioner, if entitled to, on merits. Writ petition stands disposed of in the above terms.