

Appeal Dy. No. 51/2021

Date: 04.04.2024

Master Anurag Kumar and Ors. Vs. Canara Bank

Present: Shri Ashok Pandey, counsel for the appellant,
Shri S. K. Srivastava, counsel for the respondent-Bank,
Shri S. K. Gupta along with Shri M. K. Srivastava, counsels for
the respondent no. 3, 7, 8 & 9-Auction Purchasers,

Learned counsel for the appellants submits that the reply to the stay application has been filed by the Bank and the auction purchaser. Learned counsel contends that even the property, which has not been mortgaged, has been taken in possession by the Bank and various articles and household goods, have not been given to them, which were not mortgaged and the inventory, which was prepared by the Bank, has not been given to them and there is nothing shown to be there in the premises. While the objection was filed by the auction purchaser, it has been admitted that certain items are lying in the premises. It is thus prayed that an Advocate Commissioner may be appointed, who may visit the premises and prepare the inventory so that the items, which are locked in the premises by the Bank, may be returned back to the appellants.

Learned counsel for the respondent-Bank submits that the contention of the appellants that non mortgaged property has been put to auction is incorrect and at the time of taking possession, Panchnama was prepared and the items were mentioned in the Panchnama, which were taken over by the Borrower. It is also contended by the learned counsel for the Bank that the property was sold with the consent of the borrower.

Learned counsel for the appellant further submits that the borrower is husband of the appellant, who is missing since

2018, for which complaint has also been filed by the appellants and every action, which has been taken by the Bank against the appellants, was without any notice to the appellants, whereas the property in question is joint family property, which were not mortgaged with the Bank.

Learned counsel for the appellants also requests to appoint an Advocate Commissioner, who may visit the premises and make fresh inventory so that the necessary action and order may be passed subsequently.

Learned counsel for the respondent-Bank submits that he shall inquire the matter from the Bank as to whether the property/household goods are kept or not and inform the court on the next date and today the advocate commissioner may not be appointed.

In view of the above, a week's time is granted to the learned counsel for the respondent-Bank to verify the contention as raised by the appellants and bring it on record.

List this case on 12.04.2024.

Justice R. D. Khare
Chairperson

Anupam