

CS (COMM) No.: 421/2021

Union Bank of India vs. Jatinder Singh Lamba

06-05-2021

Pr. : Sh. Rajiv Pathak, counsel for the plaintiff.

Defendant no. 1 in person.

Today, proceedings were conducted through video conferencing. Counsel for the defendant did not join the proceedings but defendant himself appeared.

An application moved by the defendant no. 1 under Order 39 Rules 1 & 2 of CPC was taken up on 22-04-2021 and the interim ex-parte status quo was granted qua his property. This protection was granted keeping in view the extreme urgency of the matter as well as virtually time was not available to the defendant to challenge the order of the DRT before higher forum and there were proceedings of taking possession of the property of the defendant fixed on the same day just after two hours so despite having no jurisdiction, this court vide order dated 22-04-2021, granted ex-parte status-quo in favour of the defendant subject to certain terms and conditions.

Defendant was directed to deposit Rs. 50,000/- with the plaintiff bank without prejudice to his rights but the same has not been deposited. It is alleged by the defendant no. 1 that the payment was not deposited due to Covid-19 situation but no request was made to this court for any extension of time till date.



The payment could have been made to the plaintiff bank even online but that step was also not taken.

While passing order dated 22-04-2021, defendant was directed to take steps for service of the application upon the plaintiff bank but the process fee was filed very late only on 03-05-2021 at 12:03 p.m. on email of the court and even no soft copy of the application was annexed with the same due to which abhimad of the court was constrained to send only notice of the application to the plaintiff bank without any copy. Counsel for the plaintiff has no knowledge what are the contents of the application and what order was passed on last date. It shows malafide on the part of the defendant for which it can be presumed that he is not interested to diligently pursue the application further.

In the order dated 22-04-2021, it was clearly specified that this interim ex-parte status quo will not be extended in any circumstances and in between the defendant had to take steps to challenge the order of the DRT dated 22-4-2021 itself passed in early morning before higher forum but admittedly that order of the DRT is not challenged before the appropriate forum till date.

Counsel for the plaintiff stated that due to Covid situation, number of bank employees are suffering and the bank is not working properly and even the timing of the bank has also been reduced so till date the

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compromise offer given by the defendant on 15-04-2021 is still not decided.

Keeping in view the above circumstances specially the warning given in the last order to the defendant to approach the appropriate forum against the DRT order as well as due to non-compliance of certain terms and conditions of the order dated 22-04-2021, the present application under Order 39 Rule 1 and 2 of CPC of the defendant is hereby dismissed.

Plaintiff bank is now permitted to proceed against the property of the defendant under SARFEASI Act as per orders already passed by competent court and the status-quo earlier granted by this court due to extreme urgency is now vacated. Application is disposed-off accordingly.

Case is now fixed for filing of replication, affidavits of admission denial of documents by both the parties and framing of issues on 06-07-2021.

Plaintiff bank is further directed to inform the status of the compromise offer given by the defendant on 15-4-2021 on the next date of hearing. This order be uploaded on the website of the court today itself.



(Ashwani Kumar Sarpal)

District Judge-Commercial Court-05

06-05-2021..