

State Bank of India v. Canara Bank & Ors.

State Bank of India

...Appellant

Canara Bank & Ors.

...Respondent

Case No: Appeal No. 335/2015

Date of Judgement: 16/10/2023

Judges:

Mr Justice Ashok Menon, Chairperson

For Appellant: Mr Pravin Patel, Advocate.

For Respondent: None.

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Facts:

These are two appeals (No. 335/2015 and 339/2015) filed by the State Bank of India (SBI), which arose from the merger of the State Bank of Hyderabad with SBI. Appeal No. 335/2015 arises from Original Application (O.A.) No. 58/2007 filed by Canara Bank, and Appeal No. 339/2015 arises from O.A. No. 118/2010 filed by the State Bank of Hyderabad. The first Defendant in O.A. No. 58/2007 was Dynamic Plast-O-Pack Pvt. Ltd., and the first Defendant in O.A. No. 118/2010 was S.J. Poly Plast Pvt. Ltd., which were sister companies owned by common Defendants (Defendants No. 2 to 5 in O.A. No. 58/2007 and Defendants No. 2 to 4 in O.A. No. 118/2010). The State Bank of Hyderabad was arrayed as the sixth Defendant in O.A. No. 58/2007 filed by Canara Bank, while Canara Bank was arrayed as the fifth Defendant in O.A. No. 118/2010 filed by the State Bank of Hyderabad. Both companies had availed loans from the respective banks and executed mortgage and

hypothecation documents. Canara Bank advanced a loan to M/s Dynamic Plast-0-Pack Pvt. Ltd. in 2005, while M/s S.J. Poly Plast Pvt. Ltd. obtained a loan from the State Bank of Hyderabad in 2008. The dispute in these appeals is confined to the hypothecated goods (machinery) over which both banks claim rights. The immovable properties were already sold in execution by Canara Bank. The State Bank of Hyderabad sought to proceed against the hypothecated machinery in the factory, which it claims was hypothecated to it, while Canara Bank had sold the hypothecated machinery in the execution of the Recovery Certificate obtained by it, claiming it was hypothecated by M/s Dynamic Plast-0-Pack Pvt. Ltd.

Arguments by the Appellant (State Bank of India):

The machinery was purchased only in 2007 in the name of S.J. Poly Plast Pvt. Ltd., as evidenced by the invoices produced. The machinery could never have been hypothecated to Canara Bank for the loan availed in 2005. The Presiding Officer found fault with the hypothecation deed produced by S.J. Poly Plast for not containing the details of the machinery hypothecated, while the hypothecation deed executed in favor of Canara Bank provided such details. When the machinery was purchased only in 2007, it could never have been hypothecated in 2005.

Court's Elaborate Opinions:

The hypothecation deed in favor of Canara Bank provides the details of the machinery that were hypothecated. It is possible that the machinery was modified and renewed in 2007, even though it was already hypothecated to Canara Bank in 2005. When the machinery was already present in 2007 and hypothecated to Canara Bank, it could never have been hypothecated to the State Bank of Hyderabad in 2008. The hypothecation deed of 2005 in favor of Canara Bank, in clause (vi), clearly states that the hypothecated articles, whether present or future, whether now belonging to the borrower or acquired in the future, are and shall be the absolute and unencumbered property of the borrower, with full power of disposition, including the right to hypothecate and/or create any charge thereon. The borrower undertakes not to deal with/dispose of any part of the hypothecated articles

other than in the ordinary course of business, but in the manner and to the extent stipulated in the deed. From this recital, it is clear that the goods to be acquired in the future are also subject to hypothecation in favor of Canara Bank. The Appellants (State Bank of India/State Bank of Hyderabad) do not have any right to claim hypothecation over the goods already sold by Canara Bank. The Presiding Officer's findings in the impugned judgments require no interference, as there is no irregularity or error.