

INSolvency and Bankruptcy code

CA. Pravin Navandar, CA. Mukund Mall

IN THE HIGH COURT OF JUDICATURE AT BOMBAY CRIMINAL APPELLATE JURISDICTION WRIT
PETITION OF Liquidator v/s 1. The CBI 2. The State of Maharashtra

Petition under Article 227, challenges the order whereby the learned CBI Court declined to return original 'title' documents to the liquidator

Bank complained against the, CD, with the EOW under IPC of the Prevention of Corruption Act. It is prosecution case, that the CD in connivance/in furtherance of conspiracy with other co-accused availed bank loan by submitting false and fabricated documents, thereby jeopardising bank's interests. EOW seized most of the files, documents, hard-disks, containing information, data, records etc.

The liquidator, under IBC is duty bound to collect of information relating to assets, finances and operations of CD for determining the financial position including information relating to its business, operations, assets and liabilities. Liquidator requested EOW to return the original title documents. EOW informed that, documents sought by the liquidator are in judicial custody of Special CBI Court. The petitioner therefore preferred Misc. Application before the Special CBI Court seeking return of original documents The Special CBI Court, declined. The liquidator then moved High court under Article 227. Liquidator, is under obligation to liquidate the CD Obviously, for selling the assets during the liquidation process, the buyers would insist for original title documents. Otherwise, If such documents are not provided, the purchaser/bidders may withdraw from their bids which will eventually cause loss to public-sector banks, besides hardship for bonafide purchasers. It is therefore essential that the original title documents seized by the CBI and presently in the custody of the Special Court are required to be returned to the purchaser. The CBI Court shall handover the documents listed to the Liquidator. The CBI or the law enforcement agency may keep the certified copies of the title deeds which may form part of their charge sheet.