IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8298 of 2015

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1.M/s Mahavir Enterprises at Mirjapur Nohta, Railway Colony, P.O. & P.S.-Fatuha, District-Patna through its Proprietor, Smt. Basanti Devi
2. Smt. Basanti Devi, wife of Sri Rajesh Kumar, resident of At-Mirjapur Nohta, Railway Colony, P.O. & P.S.-Fatuha, District-Patna.

.... Petitioner/s

Versus

1.The Presiding Officer Debt. Recovery Tribunal , Patna(Bihar) situated at Lodipur, P.O.-G.P.O., P.S.-Gandhi Maidan, District-Patna.
2. The Regional Manager, Bank of India, Regional Office, Patna.
3. The Authorized Officer, Bank of India, at-Chanakya Place, R'Block, P.O.-G.P.O. P.S. Kotwali, District-Patna
4.The Branch Manager,Bank of India, Fatuha Branch, At & P.O. & P.S.-Fatuha,District-Patna. .... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Mahesh Narayan Parvat & Mr. Sanjay Kumar Sharma
For the Respondent/s : Mr. Ajay Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL ORDER

2 27-05-2015 The petitioners, by this writ petition, have challenged the action taken by the Bank of India through its Zonal Office at Patna to auction their property in exercise of rights contained in Securitization And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002(in short S.A.R.F.A.E.S.I). According to the petitioners, the total dues is about Rs.16,00000/-(sixteen lakhs), and their house , which is much more than Rs.25,00000/-(twenty five lakhs), has been valued arbitrarily at about Rs.10,0000/-(ten lakhs), and has thus been shown at less than half of the price; for whose benefit, one wonders.

2. Learned counsel for the Bank very fairly states that the Bank is not interested in selling the property; its only interest is to secure its money.

3. Learned counsel for the petitioners states that the Bank have already locked the entire house and petitioner no.2, who is sick, has to take refuge elsewhere. They have already advertised the property for sale. The property is situated in Main Fathua Market on the main road, which is National Highway.

4. Having considered the matter, I direct the petitioners to deposit a sum of Rs.5,00000/-(five lakhs) by 5th June, 2015 with the respondent-Bank. On such deposit, the premises would be immediately, on the same day, unlocked. By 3rd July, 2015, the petitioners would then further deposit a sum of Rs.5,00000/-(five lakhs), and in case they decide to sell the property, they would disclose to the purchaser the total amount due to the petitioners, and the purchaser would be required to deposit the entire sale consideration with the Bank directly towards the liquidation of outstanding loan. In case there is excess amount, the Bank would indicate and refund it to the petitioners. In case the amount is short, the difference would be then recoverable by the Bank by the process, as authorized by law. These steps, if the petitioners intend to take, must be completed by 15th August,

2015. Alternatively, by 15th August, 2015, the petitioners would be required to deposit another instalment of Rs. 5,00000/-(five lakhs), and then balance to be cleared by 30th September, 2015. If, in either event, the petitioners fail, the Bank would proceed in the matter, as if no order had been passed. This, however ,is without prejudice to the rights of the parties to come through a mutual understanding, as per the instruction available or any remission available, which may be given by the Bank, which may be availed by the petitioners.

5. Needless to say, in view of the aforesaid order, the advertised auction would not take place.

6. In view of the aforesaid order, the parties agree that the writ petition itself stands disposed of.

(Navaniti Prasad Singh, J)

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