

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13475 of 2015

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M/s. Sun Print & Packers, Proprietor, Mr. Dhananjay Kumar, son of late Mathura Prasad Jaiswal, resident of mohalla- Rai Jai Krishna Road, Gurhatta, Police Station- Khajekalan, Patna City, District- Patna.

.... Petitioner

Versus

1. Regional Manager, Canara Bank, Luv Kush Tower, Exhibition Road, Patna- 800001.
2. Authorised Officer, Canara Bank, Patna City, Patna.
3. Senior Manager, Canara Bank, Circle Office (R & L Section), 4th Floor, Luv Kush Tower, Exhibition Road, Patna.

.... Respondents

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Appearance:

For the Petitioner : Mr. Ajay Prasad, Advocate
For the Respondents Bank : Ms. Sheela Sharma, Advocate
Mr. Shivendra Kumar Roy, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 17-09-2015

Heard learned counsel for the petitioner and learned counsel for the respondent Bank.

2. The present writ petition has been filed for quashing the auction sale notices dated 17.08.2015 published in the daily newspapers 'The Times of India' as well as daily Hindi newspaper 'Hindustan' fixing the date for auction on 19th September, 2015 at 5.00 p.m., despite order dated 14.08.2015 passed by Presiding Officer, Debts Recovery Tribunal, Patna vide S.A. No. 93 of 2015 setting aside the possession notice.

3. It is submitted that pursuant to SARFAESI Appeal No. 93 of 2015 having been allowed by the Presiding Officer, Debts Recovery Tribunal, Patna setting aside the possession notice dated 23.03.2015 the question of auction sale of the petitioner's property does not arise and the

auction sale notice in the newspapers have become infructuous.

4. A counter affidavit has been filed on behalf of the respondent Bank in which it stands admitted that the possession notice dated 23.03.2015 has been set aside in SARFAESI Appeal No. 93 of 2015 by order dated 14.08.2015. It is further stated that since e-auction sale notice dated 17.08.2015 had already been published on the website, corrective measures were taken and the same has been withdrawn with regard to the petitioner. The counter affidavit however is silent with regard to withdrawal of the auction sale notice published in the newspapers.

5. In the above view of the matter, that the possession notice dated 23.03.2015 has already been set aside and the e-auction notice has already been withdrawn as against the petitioner, the auction sale notices published in the daily newspaper 'The Times of India' as well as daily Hindi newspaper 'Hindustan' at item No. 21 on 17.08.2015 have also clearly become infructuous and are hereby quashed.

6. The writ petition stands allowed.

(Vikash Jain, J)

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