

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11924 of 2010

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Naresh Kumar Yadav S/O Late Ganesh Gop, R/O Moh-Bhawar Pokhar,
P.S.Pirbahore, Distt-Patna

.... Petitioner/s

Versus

1. The Registrar, Debts Recovery Tribunal For The State of Bihar at Patna
Situating at Bank Road, P.S.Gandhi Maidan, Distt-Patna
2. Chanara Bank Main Branch, through its Chief Manager, at South
Gandhi Maidan, P.S. Gadhi Maidan, Patna
3. Sri Dinesh Prasad S/O Late Jangli Prasad, R/O Opposite Allahabad
Bank, B.N. College, Bakarganj Bajaj Home, Makhania Gali, P.S.
Pirbahore at Patna
4. Smt. Madhuri Kumari W/O Sri Dinesh Prasad, R/O Opp. Allahabad
Bank, B.N.College, Bakerganj, Bajaj Home, Makhania Gali,
P.S.Pirbahore, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bibhuti Prasad Pandey, Sr. Adv.
Mr. Shivendra Kumar Sinha

For the Respondent No.2 : Mr. Ratnesh Nandan Sinha

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 26-03-2015 Heard learned senior counsel appearing on behalf of the
petitioner and the learned counsel appearing on behalf of the
respondent no.2. However, despite valid service of notice, none is
appearing on behalf of the respondent no. 3 and 4.

The petitioner has filed the present writ petition under
Article 226 of the Constitution of India assailing the validity and
correctness of the order/ judgment dated 31.05.2010 (Annexure-4)
passed by the learned Debts Recovery Tribunal, Patna in
SARFAESI Appeal No.33 of 2008, whereby the aforesaid appeal
filed on behalf of the respondent no.4 herein was allowed and
auction sale made in favour of the petitioner with respect to the
property in question and consequently issuance of sale certificate
and its confirmation were cancelled.

When the matter has been taken up for consideration

today, a supplementary affidavit has been filed on behalf of the petitioner stating therein that against the impugned judgment dated 31.05.2010 (Annexure-4), the respondent Canara Bank- secured creditor had filed Appeal No. 25 of 2010 before the learned Debts Recovery Appellate Tribunal at Kolkata, which was finally allowed by the judgment and order dated 02.05.2012 (Annexure-9 to the aforesaid supplementary affidavit), and impugned judgment dated 31.05.2010 (Annexure-4) has been set aside.

In the aforesaid factual matrix, learned senior counsel appearing on behalf of the petitioner has rightly submitted that in view of the judgment passed by the learned Debts Recovery Appellate Tribunal, Kolkata setting aside the impugned judgment dated 31.05.2010 (Annexure-4), cause of action does not survive and the present matter has become infructuous.

Learned counsel appearing on behalf of the respondent no.2 supports the aforesaid submission made on behalf the petitioner.

In above view of the matter, the present writ petition stands disposed of as infructuous.

However, it is clarified that if any action is taken with respect to property in question by the respondent no. 3 and 4, then it is expected that before any final decision is taken, an opportunity of hearing shall be given to the petitioner also as he has acquired a legal right with respect to the property in question.

(Birendra Prasad Verma, J)

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