

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2764 of 2015

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1. Pashupati Kumar, son of late Parmeshwar Ram resident of village- Phulwaria, Ward No. 5, P.O. - Barauni, P.S- Phulwaria, District- Begusarai.
 2. Smt. Sudha Devi wife of Pashupati Kumar, son of late Parmeshwar Ram, resident of village- Phulwaria, Ward No. 5, P.O. - Barauni, P.S- Phulwaria, District- Begusarai.

.... Petitioners

Versus

1. The United Bank of India through its Regional Manager, Katihar Regional Office, Dr. Rajendra Prasad Path, Katihar, District- Katihar.
2. The Senior Branch Manager, United Bank of India, Rajendra Road, Barauni Begusarai.
3. The Branch Manager, United Bank of India, Rajendra Road, Barauni, District- Begusarai.
4. The Authorised Authority, United Bank of India, Katihar Regional Office, Katihar.

.... Respondents

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Appearance :

For the Petitioners : Mr. Umesh Kumar Mishra, Advocate
For the U.B.I. : Mr. Binod Bihari Sinha, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-02-2015

I have heard learned counsel for the petitioners and the

United Bank of India.

Petitioners seek the following reliefs :

“ i) For issuance of an appropriate writ in the nature of certiorari for quashing the E-auction sale notice published in the newspaper “Hindustan” Hindi daily on 24.01.2015 issued under the signature of authorized officer of United Bank of India in which the name of the petitioners are appearing at sl. No.7, Pashupati Kumar, Prop. Pashupati Coal Depot, Guarantor-Smt. Sudha Devi, (B) Vill- Phulwaria, P.O.- Barauni, Begusarai - 851112, (c) Barauni, Rs.255374.75 + unrealized interest & other charges, the land and building in the name of Smt. Sudha Devi situated Mauza- Phulwaria, Mahal-Tulsipur, Thana- Phulwaria, No.390, Registry Office- Teghra, District- Begusarai, Tauzi No. 804 A/p Bihar Govt. Khata No.55, Khesra No.2523, Area 1.75 Katha,

which has also been got received by the bank to the petitioner no.1 on 03.02.2015.

ii) For issuance of an appropriate writ in the nature of prohibition by restraining the respondent authorities concerned from E-auction sale notice as there is no land and building in the name of Smt. Sudha Devi as appearing at sl. No.7, Pashupati Kumar, Prop. Pashupati Coal depot, Guarantor-Smt. Sudha Devi, (B) Vill- Phulwaria, P.O.- Barauni, Begusarai -851112, (c) Barauni, Rs.2,55,374.75 + unrealized interest & other charges, the land and building in the name of Smt. Sudha Devi situated Mauza- Phulwaria, Mahal- Tulsipur, Thana- Phulwaria, No.390, Registry Office- Teghra, District- Begusarai, Tauzi No. 804 A/p Bihar Govt. Khata No.55, Khesra No.2523, Area 1.75 Katha, and hence the petitioners may not be compelled to live a life of penury and starvation and without plot in Barauni.

iii) For issuance of any other appropriate in the nature of mandamus for commanding and directing the respondent authorities concerned to recover the loan amount in six easy installments within a year waiving the interest as the petitioners are in heavy loss and unable to pay the interest amount and other admissible charges.”

At the time of hearing, learned counsel for the petitioners undertakes that the petitioner will deposit 25% of the entire dues, i.e., the principal amount along with interest and other ancillary cost etc. prior to the date of auction i.e. 02.03.2015 and thereafter, he will pay the entire dues, i.e., balance of the principal amount and interest and other ancillary cost within four months from today.

Learned counsel for the Bank submits that the Bank is also interested in getting back its dues in place of auction sale etc. which is a coercive measure taken for recovery of the dues. If the petitioner paid 25% of the amount prior to the date of auction and rest

within four months from today then there is no reason for auctioning the property.

In view of the agreement between the parties, this writ application is being disposed of with the following directions :

“1) The petitioners will appear before the Branch Manager, United bank of India, Barauni Branch on 26th February, 2015 and on that day, the Branch Manager will provide total due amount with detailed calculation.

2) The petitioners will pay 25% of the dues shown therein before 2nd March, 2015. The rest amount would be paid by the petitioners within four months from today.”

If the petitioners fail to carry out any of the aforesaid direction then the Bank would be at liberty to proceed for the auction sale concerned. However, if 25% of the amount is paid before 2nd March, 2015 then the concerned auction sale shall remain stayed.

(Dr. Ravi Ranjan, J)

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