

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4052 of 2012

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1. Ajit Kumar Sharan, son of Sri Kalyan Kumar Sharan, resident of village – Purnea Court, P.S. – K.Hat, District – Purnea.
 2. Brindavan Bihari Lal Verma, son of Late Kishun Prasad, resident of Bhatta Bazar, P.S. – K.Hat, District – Purnea.
 3. Mrs. Ratan Prasad, wife of Shri Dasrath Prasad Sah, resident of Mohalla – Ram Nagar, P.S. – K.Hat, District – Purnea.
 4. Rajendra Kumar, son of Late Abhram Mandal, resident of Village – Shastrinagar, P.S. – K.Hat, District – Purnea.
 5. Shyam Bihar Sinha, son of Sri Radhika Prasad, resident of Sardari Tola, Gulab Bagh, P.S. – Sadar, District – Purnea.

.... Petitioners

Versus

1. The Union of India, through presiding officer Debt Recovery Tribunal (Bihar and Orissa) East Boring Canal Road, Patna.
2. The Recovery Officer, Debt Recovery Tribunal (Bihar and Orissa) East Boring Canal Road, Patna.
3. The Branch Manager, State Bank of India, Gulabbagh Branch, Purnea, District – Purnea.
4. The State of Bihar.
5. The Collector, Purnea District – Purnea.
6. The Superintendent of Police, Purnea.
7. Sri Dharm Narayan Saha, son of Late Sri Suryug Lal Saha, resident of Bhatta Bazar, P.S. – K.Hat, District – Purnea.

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Satish Kr. Agrawal, Advocate
For the Opposite Party	:	Mr. Shashi Shekhar Diwedi, Sr. Advocate
		Mr. Ranjan Kr. Dubey, Advocate
For the S.B.I.	:	Mr. Kaushalendra Kr. Sinha, Advocate
		Mr. Anjani Kr. Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL ORDER

11. 22-07-2015

Heard learned counsel for the parties.

There are serious disputes with regard to
fundamental facts in respect of entire land. It is
submitted that the purchase by the petitioners (in this

Miscellaneous Jurisdiction Case) would be hit by *lis pendens* (Section 52 of the Transfer of Property Act). If, at all, it would be deemed that they had purchased properties with subsisting mortgage and, therefore, Bank could exercise its right to sell those properties for realization of dues.

Serious disputes are there as to what was the property and to what extent it had been mortgaged. Similarly, what was the property and to what extent it was sold to the petitioners seeking modification. This cannot be resolved in these proceedings. If the petitioners seeking modification is so sanguine about his claim, it would be open to him to move appropriate civil court for declaration of his title, demarcation of the property and for restraining the Bank from proceeding against his properties on the ground that they were not subject matter of any mortgage.

With these observations, this application stands disposed of.

(Navaniti Prasad Singh, J.)

Rajeev/-

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