

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5787 of 2015

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Dayanand Singh, son of Late Baldeo Prasad Singh, resident of village- Bhaluar P.O. Pawai, P.S -Amarpur District- Banka.

.... Petitioner/s

Versus

1. The Bihar State Financial Corporation through the Chairman, Fraser Road, Patna-1.
2. The Managing Director, Bihar State Financial Corporation, Fraser Road, Patna-1.
3. The Branch Manager, Bihar State Financial Corporation, Kathalbari, Bhagalpur.
4. Bineet Kumar Roy, son of Shri Manju Kumar Roy, resident of village- Janidih P.O & P.S Gogha, District- Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vivekanand Vivek, Advocate
For the Respondent-Corporation : Mr. Raj Nandan Prasad, Advocate
For the Private Respondent No.4 : Mr. Ajay Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 11-07-2016

Heard Mr. Vivekanand Vivek, learned counsel appearing for the petitioner, Mr. Raj Nandan Prasad, learned counsel appearing for the Bihar State Financial Corporation and Mr. Ajay Kumar Jha, learned counsel appearing for the private respondent no.4.

This writ petition was filed questioning the auction sale notice issued by the respondent-Corporation bearing Memo No.187 dated 20.2.2015 in relation to mortgage/hypothecated assets of M/s Marahiyanath Udyog situated in the district of Banka, in consequence of a proceeding initiated under section 29 of the Bihar



State Financial Corporation Act, 1951 (hereinafter referred to as 'the Act') on default by the petitioner in repayment of the term loan sanctioned on 31.3.1984 and 6.3.1991 which has since accumulated to a sum of Rs.90,33,659.59 as on 28.2.2014. The petitioner did not respond to the legal notice issued on 29.4.1994 and 4.8.2010 and which led to initiation of the proceedings and has ultimately led to the auction sale order impugned in this writ petition.

It is in consideration of the submission advanced by Mr. Vivekanand Vivek, learned counsel appearing for the petitioner expressing the willingness of the petitioner to repay the loan by deposit of 60% of the auctioned amount of Rs.24,00,000/- that vide order passed on 31.7.2015, this Court stayed the operation of the order dated 5.6.2015 bearing Memo No.50 dated 18.6.2015 brought on record vide rejoinder to the counter affidavit by the petitioner whereby the directions were issued for taking over the possession of the unit subject to deposit of the said amount. The matter has thereafter been taken up on a motion made by the respondent-Corporation in reference to a stay vacating application and when it transpires that the petitioner has defaulted in complying with the direction of this Court requiring deposit of 60% of the auctioned amount. In fact it is after a motion is made for vacating stay that an interlocutory application bearing I.A. No.5372 of 2016 is filed by

the petitioner seeking further time.

That the petitioner has enjoyed the privilege of the stay order for the last one year without taking any steps either to deposit the 60% of auction amount in obedience of this Court’s direction or to seek extension of time for depositing the same, I am not persuaded either to grant any extension to the petitioner as prayed for nor in the circumstances discussed I am persuaded to interfere with the auction sale which is entirely the default of the petitioner. No cause for indulgence is made out.

This writ petition is disposed of accordingly. The interlocutory application also stands disposed of.

(Jyoti Saran, J)

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AFR/NAFR	NAFR
CAV DATE	
Uploading Date	16.7.2016
Transmission Date	