IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 3591 of 2016
Along with
Interlocutory Application No. 1681 of 2016

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Manoj Yadav Son of Late Prithvi Prasad Yadav, Resident of Village – Murliganj Durgasthan Chowk, Ward No. 11, P.S. - Murliganj, District - Madhepura.

.... Petitioner/s

Versus

1. The Central Bank of India, represented through Divisional Manager, Division Office, Patna.
2. Central Bank of India represented through Regional Manager, Regional Office, Purnea.
3. Branch Manager, Central Bank of India, Murliganj, District - Madhepura.
4. The Recovery Agent, Central Bank of India, Regional Office Saharsa.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 29-02-2016

Heard learned counsel for the parties.

Re: Interlocutory Application No. 1681 of 2016

The Interlocutory Application has been filed for stay of the operation of auction sale of the mortgaged land of the petitioner on 29.02.2016 (today). However, the parties agreeing for final disposal of the writ petition, Interlocutory Application No. 1681 of 2016 stands disposed off.

Re: Civil Writ Jurisdiction Case No. 3591 of 2016

Learned counsel for the respondent submits that he is admittedly the borrower but the process of auction sale of his mortgaged property has been done without even notice having been received by him. It is submitted that the said auction thus becomes unsustainable.

Upon query of the Court that if there were dues against him for which he is liable to have been proceeded against, why mere technicalities be not overlooked, learned counsel for the petitioner, upon instructions, submits that he may be given three months time to liquidate the dues and the Court may grant indulgence in the matter.

Learned counsel for the Central Bank of India (hereinafter referred to as the 'Bank') submits that it has proceeded in accordance with law and even technical objection raised by the petitioner are not correct on facts.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds the stand of the petitioner that he is ready to repay the outstanding dues within three months appears to be reasonable. The property belonging to him, it is in the interest of all concerned to allow the original owner to pay up the legal dues of the Bank. The Bank is also not suffering in such arrangement for it gets its money along with interest.

Accordingly, the writ petition stands disposed off in the following terms:

The petitioner shall Pay 25% of the admitted outstanding dues along with up-to-date interest by 28th March, 2016. For the said purpose, the petitioner shall appear before the respondent no. 3 by 4th March, 2016 along with a copy of this order where in his presence the account shall finally be calculated. The remaining 75% shall be paid latest by 15th June, 2016. The Bank in the meantime may proceed with the e-auction of the property of the petitioner. However, the same shall not be finalized. In the event the petitioner clears the outstanding dues by 15th June, 2016 the entire e-auction process shall stand set aside. In the alternative, if the petitioner defaults in his commitment and undertaking before this Court, as mentioned hereinabove, the writ petition shall be deemed to be dismissed and the Bank shall be free to recover its outstanding dues in accordance with law and shall also be free to finalize the sale. This shall be in addition to the consequences which may follow for not living up to his commitment given to the Court as the matter has been disposed off on the basis of offer made by the petitioner.

(Ahsanuddin Amanullah, J.)

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