IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1920 of 2015

Along with

Interlocutory Application No. 442 of 2016

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Sudhir Kumar Son of Late Shyam Narayan Verma, Resident of Shyam Dwarika Niwas, Dandibagh Road, Ghughari Tar, District - Gaya.

.... Petitioner/s

Versus

1. The Central Bank of India through the Deputy General Manager, Recovery Department, 12th Floor Chandramukhi Nariman Point, City Mumbai.
2. The Regional Manager, Central Bank of India, Regional Office, Gaya.
3. The Zonal Manager, Central Bank of India, Maurya Lok Complex, Block - B, 2nd Floor, Dak Bungalow Road, Patna.
4. The Senior Branch manager, Central Bank of India, Station Road Branch, Gaya.
5. The State of Bihar through the District Magistrate, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 23-02-2016

Heard learned counsel for the parties.

<u>Re. Interlocutory Application No. 442 of 2016</u>

The Interlocutory Application has been filed seeking amendment in the prayer portion of the main writ application to the extent that the respondent Central Bank of India (hereinafter referred to as the 'Bank') be directed to pay the commercial interest upon the amount paid by the petitioner which was refunded to him.

Learned counsel for the petitioner submits that earlier the case had been filed seeking a direction to the Bank to hand over possession of the property in the name of Smt. Sangeeta Devi, wife of Anil Kumar Lohani, Meer Safayat Ali Road, Purani Godam, P.S. Kotwali, Gaya, bearing Plot No. 9711 (o) 110 (N), Holding No. 15 (o) 17 (Badhu) 20 (N), Ward No. 4 (o) 15 (N), Area 0.55 decimal, Boundary-North-Arun Kumar and Sunil Kumar, South- Vijay Kumar, East-Road, West- Hata Godam (Road) which was bought by the petitioner in auction as well as interest on the amount which had been paid by him. It is submitted that after filing of the writ petition, on application made by him, the Bank refunded the amount in March, 2015 and thus now the petitioner seeks interest on the refunded amount for the period the money was kept by the Bank causing undue loss to the petitioner.

Learned counsel for the Bank submits that he may be given time to file reply to the Interlocutory Application.

In view of the nature of amendment, the Court does not deem any necessity to adjourn the matter.

Upon hearing learned counsel for the parties, the prayer is allowed. The relief sought for in paragraph-9 of the Interlocutory Application shall form part of the main writ application.

Interlocutory Application No. 442 of 2016 stands disposed off.

<u>Re. Civil Writ Jurisdiction Case No. 1920 of 2015</u>

Learned counsel for the petitioner submits that for no fault of his, though he had complied with the requirement of submitting earnest money to the Bank on 12.03.2013 and thereafter being the successful bidder depositing the rest amount on 27.06.2013, the total being Rs.18,50,000/-, the Bank had not handed over the possession of the property to the petitioner which caused him loss as he had managed to raise the amount from various sources to whom he was also liable to pay interest. It is submitted that due to illness of the mother of the petitioner, he was in need of money and thus took the refund from the Bank which was paid to him in March, 2015. It is submitted that for the period 12.03.2013/27.06.2013 till March, 2015 the money having been kept with the Bank, the petitioner is entitled to interest on the same.

Learned counsel for the Bank submits that despite its best efforts, the possession of property could not be effected and thus there has not been any deliberate or wilful laches on its part.

However, learned counsel is not in a position to defend or counter the prayer of the petitioner with regard to his claim of interest on his money which was lying with the Bank for quite some time.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that for the ends of justice, since the petitioner had deposited Rs.18,50,000/- which kept lying with the Bank for more than one year and nine months, the Bank not being able to deliver the possession of the property in question, the return of money to the petitioner was required to be so done with interest.

Accordingly, the petitioner is held entitled to 9% simple interest per annum on Rs. 18,50,000/-, to be computed from the respective dates when the petitioner had deposited the said amount, that is, on Rs. 2,00,000/- from 12.03.2013 and Rs. 16,50,000/- from 27.06.2013 till the date of actual payment. The same shall be paid to the petitioner within four weeks from the date of production of a copy of this order before the respondent no. 2 or his equivalent officer.

At this juncture, the Court makes it clear that the respondent no. 5 is duty bound to comply with the legal requirement and request of the Bank to ensure that possession of the property in question is handed over to the Bank as per its request in accordance with law within one month from today.

The Court would also like to indicate that it is taking a lenient view against the respondent no. 5 for not having filed counter affidavit for over one year but if it finds that the present order has also not been complied with by him, it may take a strict view in the matter and may further disentitle him to any indulgence in future.

Learned counsel for the State shall communicate the order to the respondent no. 5 for compliance. Learned counsel for the Bank may also take up the matter with the respondent no. 5.

The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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