

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.867 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 2349 of 2009

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Bishwanath Sah @ Biswa Nath Sah, S/o Late Shri Mangan Sah, Resident of
Mohalla - Prabhat Nagar near D.S. College, Katihar, P.S. & District - Katihar.

.... Petitioner-Appellant/s

Versus

1. The Union of India through the Secretary, Finance Department, Government of India, New Delhi.
2. The Branch Manager, Allahabad Bank (Government of India Undertaking), Head Office-2, Netaji Subhas Road, Kolkata-70001.
3. The Zonal Manager, Allahabad Bank, Zonal Office - Buddh-Marg, Patna-800001.
4. The Chief Manager, Allahabad Bank, M.G. Road, Katihar Branch, Katihar.
5. The Authorized Officer, Allahabad Bank Government of India Undertaking, Zonal Office, Buddh Marg, Patna.

.... Respondents- Respondent/s

6. Nand Kishore Prasad, S/O late Dukhi Mahto, resident of Mohalla-Binodpur, near Katihar High School, Katihar.

... ... Auction Purchaser/Respondent 2nd Set.

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Appearance :

For the Appellant/s : Mr. Binod Kumar Singh, Advocate
Mr. P. P. N. Sahi, Advocate
Ms. Vagisha Pragya Vacaknavi, Advocate

For the Respondent/s : None

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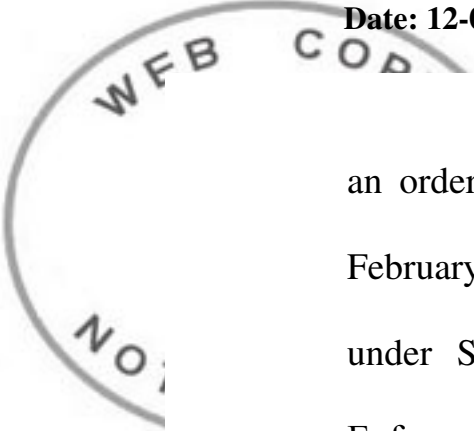
CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 12-08-2016



The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 26th February, 2015 whereby, the challenge to the action taken by the Bank under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, “Act”) was dismissed with liberty to the appellant to avail the statutory remedy as provided under Section 17 thereof.

2. The argument of learned counsel for the appellant is that no notice under Section 13(2) of the Act was served upon the appellant; therefore, the proceedings initiated under the Act, including that of sale, are vitiated.

3. We have heard learned counsel for the appellant and find no merit in the said argument. In reply to the legal notice served upon the appellant, the stand of the Bank is that that notice under Section 13(2) of the Act was issued on 27th of May, 2008. Subsequently, notice under Section 13(4) of the Act was also issued. Since as per the Bank, notices under Section 13(2) and (4) were issued, we find as to whether such notices were actually received or issuance of notice would be a valid notice are the disputed facts which can be adjudicated upon only in an appeal.

4. In view thereof, we do not find any inherent lack of jurisdiction in the proceedings initiated under Section 13 of the Act which may warrant interference in the present Letters Patent Appeal. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
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