

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1666 of 2015

Prabha Pandey W/o Shambhu Pandey, Ram Jaipal Nagar, Near Pharmacy College,
P.S- Rupaspur, District- Patna.

.... Petitioner/s

Versus

1. The Presiding officer Debt Recovery Tribunal Patna, Bihar.
2. The Recovery Officer, Debt Recovery Tribunal, Patna.
3. Bank of Baroda, Frazer Road Branch, through its Branch Manager, District- Patna.
4. Branch Manager, Bank of Baroda, Frazer Road Branch, Patna.
5. M/s Vaishnavi Enterprises at G/24 maharaja Complex, Fr. Road, Patna through its Prop. Shailejendra Kumar Pandey.
6. Shailjendra Kumar Pandey Prop. M/s Vaishnavi Enterprises R/o Mo- Ram Jipal Nagar, Near Pharmacy College, P.S Rupaspur, District Patna at present in custody at Beaur Jail.
7. Sri Anuj Kumar S/o Sri Shyamji Sahay, R/o Shanti Colony, Near Pharmacy College, Ram Jaipal Nagar, P.S- Rupaspur, District Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Kumar Singh, Advocate.
For the Bank : Mr. Sanjeev Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 10-02-2016

Heard learned counsel for the parties.

The petitioner is aggrieved by order dated 12.09.2014 passed by the respondent no. 2 in R.P. Case No. 353 of 2012 by which objection filed by the petitioner to drop the recovery proceeding with respect to her land and house property has been rejected.

Learned counsel for the petitioner submits that her son had taken loan from the Bank of Baroda (hereinafter referred to as the 'Bank') for which he had submitted a forged and fabricated sale deed in his name with regard to land and house owned by the petitioner. It



is submitted that when her son defaulted in payment, the Bank proceeded before the respondent no. 1 and when notice was issued to the petitioner with regard to sale of the land and house belonging to her, she became aware of the fraud committed by her son and informed the Bank. The Bank then got the matter verified and came to the conclusion that indeed, the sale deed produced by the son of the petitioner, with respect to the land and house of the petitioner, was forged and fabricated for which the Bank has also lodged an F.I.R. It is submitted that when such objection was raised before the respondent no. 2, the same has been dismissed by the impugned order.

Learned counsel for the Bank submits that because it was unaware of the fraud committed by the loanee, who is the son of the petitioner, the said property of the petitioner was also included in the request sent to the respondent no. 1 resulting into land and house of the petitioner also being put to auction. However, it is admitted that the sale deed in favour of the son of the petitioner, relating to the land and house of the petitioner, has been found to be forged and fabricated.

Having considered the facts and circumstances of the case and the submissions of learned counsel for the parties, this Court finds that the petitioner has made out a case for interference. The land and house, belonging to her, which was fraudulently mortgaged before the

Bank by her son, cannot be put on auction sale for recovery of the loan given to the son of the petitioner. Accordingly, the requisition of the Bank of Baroda to the Debts Recovery Tribunal, Patna, Bihar, for the recovery of the loan of the son of the petitioner, as far as it relates to the land and house of the petitioner stands quashed.

The requisition and action of the Debts Recovery Tribunal and its Recovery Officer shall proceed with regard to other properties, except that of the petitioner relating to land bearing Co-operative Society No-190/B, Survey Plot No. 182, Khata No. 67, Taizi No. 5139, Thana No. 20, Area 2040' from Ram Jaipal Griha Nirman Samiti Limited bearing sale deed dated 09.10.1987.

The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

Sujit/-

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