

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.2930 of 2015**

**Along with**

**Interlocutory Application No. 5341 of 2015**

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Prabhat Kumar Proprietor of M/s Civelec Services, C/o Anand Steelmet India Pvt. Ltd. Patliputra Patna, Resident of sudha Sadan , West of Gandhi Murti , Durja, P.S Budha Colony, District- Patna-800001

.... .... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Industry, Government of Bihar, Patna.
2. The Bihar State Credit And Investment Corporation Ltd.
3. The Director, Bihar State Credit and Investment Corporation Ltd., 4th floor, Indira Bhawan, Ram charitra Singh Path , Near Hartali Mor, Bailey Road, Patna-800001
4. The Managing Director, Bihar State Credit and Investment corporation Ltd. 4th Floor.
5. Awadesh Prasad Sinha son of Late Raghunandan Prasad, resident of At and P.O. Barichhariari, P.S. Tharthari, District Nalanda.

.... .... Respondent/s

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**Appearance :**

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| For the Petitioner         | : Mr. Rajendra Prasad Singh, Sr. Advocate<br>along with Mr. Rajeev Kumar Singh, and<br>Mr. Nirala Kumar Singh, Advocates |
| For the Respondent State   | : Mr. Mukul Prasad, A.C. to G.P. 18                                                                                      |
| For Respondents No. 2 to 4 | : Mr. Nirmal Kumar, Advocate                                                                                             |
| For Intervenor Respondent  | : Mr. Siddhartha Prasad, Advocate                                                                                        |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 10-01-2017**

Heard learned counsel for the parties.

Re. : Interlocutory Application No. 5341 of 2015

2. The Interlocutory Application has been filed by Awadesh Prasad Sinha, who is the original promoter of the property in question and has moved the Court for being impleaded as respondent in opposition to the writ application.



3. Learned counsel for the proposed intervenor submitted that he being the original promoter, the property has been sold to the writ petitioner in auction sale in a highly illegal manner as the very valuation report on which the auction was held is patently erroneous and further, the procedure prescribed for intimating to the original promoter the offer received and giving him opportunity to satisfy the same, has not been done.

4. Learned counsel for the other parties do not oppose.

5. In view of the aforesaid, let Mr. Awadesh Prasad Sinha be impleaded as respondent no. 5 in the writ petition. Necessary correction be made by learned counsel for the Intervenor in course of the day. Interlocutory Application No. 5341 of 2015 stands disposed off.

Re. : Civil Writ Jurisdiction Case No. 2930 of 2014

6. The writ application has been filed by the petitioner seeking a direction to the Bihar State Credit and Investment Corporation Limited (hereinafter referred to as the Corporation) to execute and register the sale deed of the property bought by him in auction sale of M/S. Kiran Re-rollers Private Limited, Nalanda.

7. Learned counsel for the petitioner submitted that despite they having been successful in the auction sale of the property in question and having deposited the entire bid amount of



Rs.3,31,51,000/- in September, 2011 itself, the property has not been transferred by way of registered sale deed in his favour.

8. Learned counsel for the respondent Corporation, who has also filed counter affidavit, submitted that only because of filing of the present case by the petitioner, the same has not been done and the Corporation is ready to execute the sale deed forthwith in favour of the petitioner. However, he submitted that possession has already been given to the petitioner of the property in question.

9. Learned counsel for the Intervenor respondent no. 5 submitted that the entire process of auction sale is collusive and that the Corporation, being a State entity, should not be allowed to violate the law and this Court may not direct for the registration of the sale deed till the grievance of the respondent no. 5 has been considered in accordance with law.

10. Learned counsel for the petitioner opposed the contention of the Intervenor respondent and submitted that respondent no. 5 had moved this Court against the auction sale notice in C.W.J.C. No. 9994 of 2011 and the same was dismissed. Challenge to the same in L.P.A. No. 1244 of 2011 has also been rejected on 06.03.2012 and after that respondent no. 5 has not moved before any higher Court. He further submitted that respondent no. 5 has no *locus standi*, inasmuch as, it was the Company i.e., Kiran Re-rollers Private



Limited, which could have had any objection and not respondent no. 5 in his personal capacity and because the Company has already agitated the matter before this Court, both before the learned Single Bench as well as the Division Bench, the same issue cannot be agitated in the present proceeding.

11. Having considered the rival contentions, in the considered opinion of this Court, the relief sought for by the petitioner is *bona fide*. Once, upon being successful in an auction purchase and having paid the entire consideration amount, it is his legitimate right for the formal transfer of the right, title and interest of the property in his favour, which has been held up for no valid reason. The plea of the Corporation that due to pendency of the present writ petition they were not taking any steps cannot be sustained as there has been no interim order and more importantly respondent no. 5 has not moved independently for any stay of either auction sale or the property being transferred in favour of the petitioner, except for the aforesaid writ petition and Letters Patent Appeal. Respondent no. 5 had to agitate for his rights in his own capacity before the appropriate forum and him having chosen not to do so, after dismissal of the Letters Patent Appeal filed by the Company in the present writ application, in the opinion of the Court, no relief can be granted to him. However, it shall be open to him to move in accordance with law before the



appropriate forum for whatever grievance he might have with regard to the transaction in question, in accordance with law, and may raise all the points available to him before such forum.

12. Having considered the matter in its entirety, the writ application is disposed off with a direction to the Corporation to execute and register the deed of sale for the premises in question within three weeks from the date of receipt/production of a copy of this order before the respondent no. 4.

**(Ahsanuddin Amanullah, J)**

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