

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9389 of 2016

=====

1. Sachida Nand Singh Son of late Bindeshwari Singh Resident of Mohalla-Lohanipur, PS Kadankuan, District Patna.

.... Petitioner/s

Versus

1. Dena Bank, Patna Main Branch Mourya Lok, PS Kotwali District Patna through its Branch Manager.
2. Deepak Kumar S/o late Bishwanath Sahay East Lohanipur, PS Kadamkuan, District Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh
For Dena Bank : Mr. Sheela Sharma

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 19-01-2017 Heard learned counsel for the petitioner and learned counsel for the Bank.

In the present writ petition, petitioner has raised a point that he is a bona fide purchaser of the property and has not taken any loan from Dena Bank, but the property in question has been put to auction. Objection has been raised that the Vendor has no right to mortgage the property to two institutions and that too Dena Bank should not have taken the property in mortgage when it was already mortgaged to the State Bank of India.

Learned counsel for the Bank submits that already there is a provision for appeal as well as if the petitioner was



not heard then he should have approached the Tribunal for review of the order and ought to have prayed for his hearing as well as the mortgage is a registered mortgage, before purchasing the property getting registered, the petitioner should have obtained non-encumbrance certificate from the Office of the Registry only thereafter, he should have purchased the property. She further submits that if the petitioner is not vigilant that what he is purchasing is a bag of wind then he must thanks to himself.

This Court is not giving any opinion on the merit of the case that can only be decided by the Tribunal. There is a provision of appeal against the order passed by the Recovery Officer. Petitioner is directed to raise all the points before the Tribunal and Tribunal is directed to decide the issue in accordance with law.

The pendency of this application before this Court will be considered by the Tribunal while deciding the issue of limitation, if any.

With the aforesaid observation and direction this writ petition is disposed of.

Vinay/-

U			
---	--	--	--

(Shivaji Pandey, J)

