

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11414 of 2016

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Abhimanyu Kumar Singh S/o Shri Arjun Singh Resident of village - Singhi Khurd,
Ward No. 1, P.O. + P.S. - Arrah Town, District - Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Rohtas.
2. The Debt Recovery Appellate Tribunal Allahabad Uttar Pradesh.
3. The Debt Recovery Tribunal, A & B Wing, 5th Floor, Karpuri Thakur Sadan, Kendriya Karyalay Parisar, Near Rajeev Nagar Thana, Ashiana - Digha Road, Patna - 800024.
4. The Recovery Officer, Debt Recovery Tribunal, A & B Wing, 5th Floor, Karpuri Thakur Sadan, Kendriya Karyalay Parisar, Near Rajeev Nagar Thana, Ashiana - Digha Road, Patna - 800024.
5. The IDBI Bank Ltd., a Company incorporated and registered under the Company Act, 1956 and a banking company within the meaning of Section 5 of the Banking Regulation Act, 1949, having its registered office at IDBI Town, WTC Complex Cuffle Parade, Mumbai - 400005.
6. The Branch Manager, IDBI Bank Ltd. Uma Complex Branch, Fraser Road, Patna - 1.
7. Shri Arjun Singh son of Late Rajnath Singh
8. Smt. Bimla Devi wife of Shri Arjun Singh
Both residents of Mohalla - Rukunpura, Near Singh Petrol Pump, P.O. - B.V. College, P.S. - Rupaspur Town, District - Patna.
9. Shri Badri Kumar Mittal son of Shri Pawan Kumar Mittal Resident of G/2A, Pushp Vihar Colony, Exhibition Road, Patna - 800001.
10. The Superintendent of Police, Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vipin kumar, Adv.
For the State : Mr. Sanjay Kumar Jha, AC to GP-7
For the IDBI Bank : Mr. Shivendra Roy, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-06-2017

Heard learned counsel for the petitioner and counsel for
the State.

In this writ application, the petitioner is seeking relief of
stay of the order dated 29.4.2016 passed by the Presiding Officer,
Debt Recovery Tribunal claiming that he has gone in appeal bearing



Appeal No. 130/2016, the Debt Recovery Appellate Tribunal, Allahabad had issued a notice to the parties but, no stay has been granted.

This Court while issuing notice dated 28.7.2016 has granted interim relief of status quo. Learned counsel for the Bank has submitted that the order of the Recovery Officer indicates that the Advocate Commissioner, who was appointed by the Recovery Officer, has handed over the possession of the property to the auction purchaser and the question of stay does not arise.

Learned counsel for the private respondent has neither in a position to accept nor deny the contention of the Bank but, only submitted that the order of status quo should be vacated.

This Court is not granting the relief of stay of the order of the Recovery Officer, Debt Recovery Tribunal. If the property has been handed over to the auction purchaser, the position will remain the same by passing the status quo order.

Learned counsel for the Auction Purchaser submits that no appeal is maintainable against the order of confirmation of sale as provided under Rule 60, 61 and 62 of the Recovery of Debts due to Bank and Financial Institutions Act, 1993 as has been claimed by the counsel for the Auction Purchaser but, before confirmation of the sale, any person interested could have intervened and take a plea of



recovery of the property on deposit of the aforesaid amount but, after confirmation of sale, the appeal would not lie against the order of recovery and, for that, learned counsel for the Auction Purchaser submits that this issue has already been settled by Hon’ble Apex Court in the case of *P.M. Abubakar Vs. State of Karnataka & Ors.* reported in *2017 (1) SCC 302* which deals with the same subject matter whereas the present petitioner submits that he is ready to deposit the entire consideration amount.

This court is not giving any opinion on the merit of the case but, the D.R.A.T., Allahabad will decide the issue about maintainability of the appeal as well as the prayer of the present petitioner with respect to deposit the amount which as been earned in auction sale. Let the D.R.A.T., Allahabad should decide the present appeal without delay preferably within a period of two months from the date of receipt of this order. Till then, the status quo, as on today, shall be maintained.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.07.2017
Transmission Date	NA

