

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3999 of 2018

In
Civil Writ Jurisdiction Case No.8541 of 2018

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1. Jeevan Devi, wife of Khasi Ram @ Mahadeo Rai Bageria @ Kashi Prasad Bageria, resident of New Market Jamalpur, P.S. Gogari, District Khagariya
2. Kishore Kumar Bageria @ Kishore Kumar Bharti, son of Kashi Ram @ Mahadeo Rai Bageria @ Kashi Prasad Bageria, resident of New Market Jamalpur, P.S. Gogari, District Khagariya

... .. Petitioners

Versus

1. The State Of Bihar through the Excise Commissioner, Bihar, Patna
2. The District Magistrate, Khagaria
3. The Superintendent of Police, Khagaria
4. The Officer In-charge, P.S. Gogri, District Khagaria
5. Union Bank of India, through its Branch Manager, Gogari Jamalpur Branch, Khagaria, Bihar

... .. Opp. Parties

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Appearance :

For the Petitioner/s : Mr. Rajiv Prashant, Adv.
Mr. Shaishav Kumar, Adv.
For the Respondent/s : Mr. Kumar Alok, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

4 18-12-2018 This application has been filed for modification of the order dated 15.5.2018 passed in C.W.J.C.No. 8541 of 2018 by which the District Magistrate, Khagaria was directed to release the house in question on furnishing original title deed of the property in question and two local sureties to his satisfaction.

Heard learned counsel for the parties.

In view of the submissions made at the Bar that the original title deed of the house in question is lying with the



Union Bank of India, Gogari Jamalpur Branch by way of an equitable mortgage for the financial assistance availed by the petitioners, we thought it just and proper to call upon the petitioners to add the Union Bank of India through its Branch Manager, Gogari Jamalpur Branch as a party respondent in the present case and direct him to serve two copies of the writ application on the learned Counsel representing the Bank.

Today Mr. Kumar Alok, learned Counsel representing the Union Bank of India has appeared on behalf of the Bank and has informed this Court that this property is lying mortgage with the Bank and presently there is an outstanding of Rs. 6,62,850/- approximately on account of the loan. The Branch Manager, Gogari Jamalpur Branch has issued a letter addressed to the District Magistrate, Khagaria wherein he has assured that as and when the original title deed of the property will be required, it will be submitted with the office of the District Magistrate in connection with the pending confiscation proceeding.

Learned Counsel has made a submission and in our opinion rightly so that the Bank is already having mortgage of the property in question and in case, ultimately in the confiscation proceeding the property is confiscated and is rendered liable to be sold, the amount received from such sale



would be liable to be first appropriated against the outstanding amount of the Bank. We do not find any unreasonableness in the submissions made by Mr. Kumar Alok on behalf of the Bank.

Learned Counsel for the State is present and considering the legal positions, he would have no objection to the submissions of the learned Counsel representing the Bank.

In the facts and circumstances, we modify our order dated 15.05.2018 passed in CWJC No. 8541 of 2018 to the extent that now the District Magistrate-cum-Collector, Khagaria shall not insist for furnishing the original title deed of the property in question because the same is lying with the Bank and it is in safe custody with an assurance that title deed of the property will be made available to the District Magistrate, Khagaria as and when required, subject to the condition that the amount received from such sale will be applied first towards meeting the obligation of the bank. Thus, in the changed circumstances now the petitioners would be liable to submit only two local sureties to the satisfaction of the District Magistrate, Khagaria.

On submission of the two local sureties in terms of our previous order dated 15.05.2018, the property in question shall be unsealed and possession will be handed over to the



petitioners within a period of one week.

This application stands disposed of accordingly.

(Jyoti Saran, J)

(Rajeew Ranjan Prasad, J)

Archana/
Surendra

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