

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 8793 of 2018

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Sanjay Kumar Son of late Satyanarayan Singh Resident of Ward No. 1,
Issufchak, Takiya, Takiya Bazar Police Station Sasaram Model Thana, District-
Rohtas.

.... Petitioner/s

Versus

1. The Bank of Baroda through Its Chairman cum Managing Director, Suraj Plaza-1 Sayaji Ganj, Baroda-890005
2. The Regional Manager, Regional Office, Bank of Baroda, Anand Bihar, West Boring Canal Road, Patna.
3. The Senior Manager-Cum-Authorized Officer, Bank of Baroda, Sasaram Branch Hasnun Market, Old G.T. Road, Sasaram, District- Rohtas, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Prasad, Adv

For the Respondent/s : Mr. Ratnesh Nandan Sinha, Adv

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-05-2018

The present writ petition has been filed for quashing the third auction sale notice dated 19.04.2018 published in daily newspaper 'Dainik Bhaskar' for auction of the mortgaged property of the petitioner.

2. Learned counsel for the petitioner submits that the impugned auction sale notice is wholly arbitrary and without jurisdiction for want of proper notice and for non-compliance of the provisions of the SARFAESI Act and Rules.

2. Learned counsel for the respondent bank on the other hand relies on the counter affidavit to submit that the petitioner had earlier approached this Court in CWJC No. 1311 of 2018 which was



dismissed on 22.02.2018 as withdrawn, granting liberty to avail of the alternative remedy of appeal before the Debts Recovery Tribunal (DRT). Pursuant to such order, the petitioner did in fact file an appeal before the DRT on 01.03.2018, but did not choose to pursue the same.

3. Having heard the parties and on consideration of the materials on record, this Court is of the view that the petitioner has not acted with due diligence and filing of the appeal before the DRT challenging the possession notice was merely an eye-wash and his intention has clearly been to delay the process of recovery and no serious effort has been made to seek remedy in a proper and effective manner.

4. The issue relating to challenge to the validity of the possession notice, not having been pursued further in the appeal filed before the DRT has now become final. This Court takes notice of the judgment dated 05.03.2018 passed in the petitioner's case in CWJC No. 2135 of 2018 and analogous case in which the auction sale notice dated 24.01.2018 was also not interfered with. The present auction sale notice is merely a consequence and further step towards recovery of the outstanding dues of the bank after the stage of taking possession under Section 13(4) of the SARFAESI Act.

5. Considering that the petitioner has not acted with due diligence in pursuing his remedy before the DRT, this Court is not inclined to exercise its discretionary power in its writ jurisdiction. The writ petition accordingly stands dismissed.



(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2018
Transmission Date	NA

