

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19311 of 2017

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M/s Vidyawati Sales Corporation situated at D/71 P C Colony, Kankarbagh,
Patna through its proprietor Manoj Kumar, Son of Laxman Rai Resident of Lal
Sadan, Sahdeo Giri Road, Katira, Ara, District - Bhojpur - 802301.

.... Petitioner

Versus

1. Canara Bank through its Senior Manager, Circle Office, Fourth Floor, Luv Kush Tower, Exhibition Road, Patna.
2. The Senior Manager, Canara Bank, Fourth Floor, Luv Kush Tower, Exhibition Road, Patna.
3. The Branch Manager, Canara Bank, Jail Road, Ara, Bihar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajendra Narain, Sr. Advocate
Mr. Shri Krishna Sinha, Advocate

For the Respondents : Mr. Sanjay Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 31-01-2018

I.A. No. 59 of 2018

The interlocutory application has been filed with the prayer for amendment of the relevant portion of the prayer in the writ petition by quashing the e-auction notice dated 29.01.2018 as well as e-auction notice published in Hindustan on 29.01.2017 as contained in Annexures - P/12 and P/13.

2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated as forming part of the writ petition.

CWJC No. 19311 of 2011



3. The present writ petition has been filed for quashing the notice dated 25.07.2017 issued by the respondents by which the account of the petitioner bearing No. 0376261000182 has been classified as non performing assets and the guarantee given by the petitioner has been invoked and the petitioner has been directed to pay the amount of Rs. 71,76,962/-/- with further interest on the contracted rate with effect from 01.07.2017; and for connected reliefs.

4. This matter has been listed out of turn on the request of the petitioner on the ground that the mortgaged property of the petitioner has been put on auction which was to be held on 29.01.2018.

5. Admittedly, the auction has failed and mortgaged property of the petitioner could not be auctioned in absence of willing buyers, as such the matter does not involve urgency.

6. This Court also takes notice that the petitioner has statutory remedy available by way of appeal under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI Act"), which has not been availed of.

7. In this view of the matter, this Court is not inclined to enter upon the merits of the matter.

8. The writ petition stands disposed of with liberty to the petitioner to approach the appellate forum for redressal of its grievances. In case any such appeal is filed within a period of 30 days



from today the same shall be considered and disposed of on its own merits in accordance with law.

9. It is made clear that in case such an appeal is filed, the concerned authority would have regard to the present proceeding being pursued by the petitioner while considering any issue relating to condonation of delay, if applicable.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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