

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4587 of 2018

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1. Ranjan Kumar son of late Surendra Prasad Singh, resident of village Lalganj Sehra, P.S. Paliganj, District- Patna presently residing at Mohalla- Chapra Lodi @ Maripur, P.S. Muzaffarpur, District- Muzaffarpur.
 2. Indu Kumari wife of Late Abhay Nandan Choudhary, resident of village- Patori, P.O. Patori Basan, District- Darbhanga presently residing at Mohalla- Laheriasarai, P.S. Laheriasarai, District- Darbhanga.

.... Petitioners

Versus

1. The Chief Manager, Zonal office, Corporation Bank, Patna.
2. the Authorised Officer, Corporation Bank, Hathikhana Branch, Saguna More, Danapur, District- Patna.
3. The Branch Manager, Corporation Bank, Hathikhana Branch, Saguna More, Danapur, District- Patna.

.... Respondents

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Appearance :

For the Petitioners : Mr. Mrigank Mauli

Mr. Vinay Mistry, Advocates.

For the Respondents : Mr. Bal Bhushan Chaudhary, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-03-2018

This matter has been taken up out of turn on the request of learned counsel for the petitioners in view of the auction sale of their properties to be held on 31.03.2018.

2. Heard learned counsel for the petitioners as well as learned counsel for the respondents.

3. The present writ petition has been filed for the following reliefs –

“(i) For issuance of a writ in the nature of Certiorari for quashing of Notice of Auction Sale dated 23.02.2018 (Annexure-P/2) issued by the Authorised Officer, Corporation Bank, Zonal Office, Patna whereby the date



of Auction has been fixed on 13.03.2018 at 11.45 AM to 1.15 PM by inviting Bids from the public as the aforesaid notice is contrary to Rule 8(6) of the Security Interest (Enforcement) Rules, 2002

(ii) For issuance of a writ in the nature of Mandamus directing the respondents not to sale the mortgaged Land and Residential House of the petitioners in Auction Sale as the petitioners are the Guarantor and the Borrower are serious about repayment of the outstanding dues to the Bank.

(iii) For issuance of a writ in the nature of Mandamus directing the respondents not to issue repeated auction notice because the respondent Bank has already filed O.A. No. 631 of 2017 against the Borrowers and the Guarantors before the Debt Recovery Tribunal under Section 19 of the Recovery of Debt and Bankruptcy Act, 1953 for recovery of the debt of Rs. 4,19,59,499.87 with interest.

(iv) For issuance of such other writ(s), order(s), direction(s) as your Lordships may deem fit and proper."

I.A. No. 2351 of 2018

4. This interlocutory application has been filed for quashing of the Auction Notice dated 13.03.2018 (Annexure-1) issued by the Chief Manager, Corporation Bank, Patna whereby the petitioners-Guarantors and the Borrowers have been informed that the Secured Assets have been taken possession by the Authorised Officer, will be sold by holding Public E-Auction on 31.03.2018 at 11.45 AM to



1.15 PM by inviting bids from the public.

5. Having regard to the nature of the prayer, I.A. No. 2351 of 2018 is allowed and the same shall be treated as forming part of the writ petition.

C.W.J.C. No. 4587 of 2018

6. Learned counsel for the petitioners submits that on earlier occasion the auction sale of the property had failed. Once again a notice dated 13.03.2018 has been issued for auction sale of the property of the petitioners, who are the guarantors in respect of the subject loan, which has been fixed on 31.03.2018. It is submitted that in absence of prior notice under Section 13(2) or 13(4) of the SARFAESI Act being served upon the petitioners, the entire process of auction sale is arbitrary and illegal.

7. Learned counsel for the respondent-Bank appears and has been heard. It is submitted that the Bank had approached the Debts Recovery Tribunal, Patna in O.A. No. 631 of 2017 and the auction sale is being conducted in accordance with law.

8. Having regard to the nature of the grievances of the petitioners, this Court grants them liberty to appear before the Debts Recovery Tribunal, Patna in O.A. No. 631 of 2017 and file their objection before it as notice in the said matter has already been served upon them. The petitioners undertake to file their objection before the Debts Recovery Tribunal within a period of two weeks from today. The



auction sale scheduled to be held on 31.03.2018 may proceed but the sale certificate shall not be issued in favour of the successful auction bidder, if any, for a period of one month thereafter to enable the petitioners to seek redressal of their grievances before the Debts Recovery Tribunal, Patna.

9. The writ petition accordingly stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.03.2018
Transmission Date	N.A.

