IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4185 of 2018

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Tabarak Hussain @ Md. Tabarak, S/o-Murshid Ali, Resident of Village-Chandpur, P.S.-Ekchari, Dist-Bhagalpur.

.... Petitioner

Versus

1. Bank of Baroda through East General Manager, Patna Circle, Boring Road, Patna.
2. Regional Manager, Bank of Baroda Bhatt Road, Purnea)
3. The Branch Manager, Bank of Baroda, Pathakdih (Chhatpatia), Bhagalpur.
4. Authorized Officer/Chief Officer, Main Branch, Bank of Baroda, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajendra Narayan, Sr. Advocate.
Mr. Amarendra Kumar, Advocate.

For the Respondents : Mr. Ratnesh Nandan Singh
Mr. Purusottam Prasad, Advocates.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-03-2018

Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. The present writ petition has been filed for quashing the Advertisement published by Bank of Baroda, Regional Office, Purnia in "Prabhat Khabar" dated 16.02.2018 with respect to petitioner house of SI. No. 15 whereby and whereunder the Bank has put the house of petitioner on Auction on 19.03.2018; and for a direction to the Bank Authorities to calculate the amount due against the petitioner, according to Bank regulation and norms communicate the same to petitioner so that petitioner would make payment immediately.

3. Mr. Rajendra Narayan, learned Senior counsel appearing on behalf of the petitioner submits that the petitioner was sanctioned a loan of Rs. 7,00,000/- on 12.07.2012 on flexible interest @ 10% for a period of 146 months i.e. till the year 2024 with a six months moratorium period and 140 months instalments were fixed. It is submitted that the Bank has been

charging interest with a higher rate then eligible which has resulted in some default in payments from time to time leading to the present situation where the auction of the petitioner's mortgaged property has been fixed for sale on 19.03.2018. In any event the petitioner expresses his willingness to make payment of the outstanding amount as on date subject to correct calculation of interest.

4. Learned counsel for the respondent-Bank states on instruction that an amount of Rs. 63,233.89 is outstanding against the petitioner as on 15.03.2018 in respect of the petitioner's Account No. 216606/392.

5. Having regard to the stand of the parties and in the interest of justice, this Court directs that the Bank may proceed with the auction sale as scheduled on 19.03.2018, but however the sale certificate shall not be issued for a period of one week thereafter within which the petitioner shall be at liberty to make payment of the entire dues of the Bank as aforesaid. Upon such payment being made and the petitioner approaching the Bank, the Bank shall provide the basis for charge of interest on the concerned loan account and in case it is found that any surplus interest has been charged, the same shall be refunded/adjusted in future. In case the petitioner fails to make payment of the entire outstanding amount within the stipulated period, the Bank shall be at liberty to confirm the sale in favour of the auction purchaser in accordance with law.

6. The writ petition stands disposed.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
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Transmission Date	N.A.