

IN THE HIGH COURT OF JUDICATURE AT PATNA**Civil Writ Jurisdiction Case No.5909 of 2018**

=====

Prabhu Nath Singh S/o Late Lakshman Singh R/o Village + P.O. - Muradabad,
P.S. - Sasaram, District - Rohtas (Bihar).

.... Petitioner/s

Versus

1. Punjab National Bank, Head Office at 7, Bhikaji Cama Place, New Delhi - 110066 through its Chairman-cum-Managing Director.
2. The Chairman-cum-Managing Director, Punjab National Bank, Head Office at 7, Bhikaji Cama Place, New Delhi - 110066.
3. The General Manager, Punjab National Bank, Zonal Office, Bir Chand Patel Marg, Patna.
4. The Circle Head, Punjab National Bank, Circle Office, Regal Complex, 3rd Floor, G.M. Road, Arrah.
5. The Chief Manager, Punjab National Bank, Circle Office, Regal Complex, 3rd Floor, G.M. Road, Arrah.
6. The Authorized Officer, Punjab National Bank, Sasaram (Rohtas).
7. The Branch Manager, Punjab National Bank, Sasaram (Rohtas).

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mrs. Archana Jha, Adv
Mr. Alok Ranjan, Adv

For the Respondent/s : Mr. Kumar Priya Ranjan, Adv
Mr. Niraj Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-04-2018

The present writ petition has been filed for the following reliefs ____

- (i) For quashing of the notice published by the respondent-Punjab National Bank in the daily newspaper 'Dainik Bhaskar', Gaya Edition, dated 18.03.2018 for e-auction of the mortgaged property of the petitioner described therein at sl. no. 8 on 04.04.2018 as the same is wholly illegal, without following the procedure described in SARFAESI Act and Rules.
- (ii) For quashing of the entire SARFAESI proceeding



initiated by the bank on the mortgaged property in question being vitiated for violation of the statutory provisions of Section 13 of the SARFAESI Act and also the Rules.

- (iii) For a direction to the authorized officer to produce the evidence of entire proceeding of Section 13 undertaken by them till date to show that action has been taken as per the provisions of the SARFAESI Act and the Rules.
- (iv) And also for a direction upon the respondent bank to provide the statement of loan account with rate of interest charged, the amount of interest charged, the NPA date and the correct outstanding dues and thereupon for a direction to the respondent-bank to provide adequate time to the petitioner to enable him to pay and clear the outstanding amount of the loan account of M/s Vibha Agro Food Products and thereupon permit to carry out transaction with this account or alternatively for direction to the respondent-bank to settle the loan account under OTS and allow the dues to be paid within 24 months.
- (v) Further for a direction to the respondents not to take any coercive action against the petitioner for sale of immovable property mortgaged with Bank in pursuance of publication of e-auction notice in 'Dainik Bhaskar' dated 18.03.2018.
- (vi) For any other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of the case.

2. This Court required learned counsel for the respondent-bank to seek instructions whether or not the requirements of the recently



substituted Rule 9(1) of the Security Interest Enforcement Rules, 2002 was complied with, more specifically the proviso thereto which requires the authorized officer to serve, affix and publish notice for sale, not less than 15 days to the borrower to any subsequent sale. Learned counsel for the bank fairly accepts that while the notice of sale has been published, the other requirements of serving and affixing the same have not been complied with.

3. Having regard to the stand of the respondent bank, this Court is of the view that the ingredients of the proviso to Rule 9(1) have not been properly observed, in view of which the impugned auction notice cannot be sustained.

4. The auction notice dated 18.03.2018 (Annexure-5) is accordingly quashed with liberty to the respondent-bank to comply with the provisions of Rule 9 and proceed in the matter accordingly.

5. The writ petition stands disposed of.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.04.2018
Transmission Date	NA

