

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3857 of 2017

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Kundan Kumar, S/o Late Birbhadra Prasad, resident of Mohalla- Brahampura, New Colony, Behind Sanjay Talkis, Brahampura, P.S.- Brahampura, District- Muzaffarpur.

.... Petitioner

Versus

1. The Zonal Manager, State Bank of India, RASECC, Muzaffarpur, near Jubba Sahani Park, Mithanpura, District- Muzaffarpur.
2. The Branch Manager, State Bank of India, MIT Branch, Brahampura, District- Muzaffarpur.

.... Respondents

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Appearance:

For the Petitioner : Mr. Pawan Kumar Singh,
Mr. Ranjeet Kumar Singh, Advocates

For the Resp. Bank : Mr. Satya Prakash Tripathy, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-01-2018

The present writ petition has been filed for the following reliefs:-

- (i) For issuance of any appropriate writ or writs, rule or direction, especially in the nature of mandamus directing the respondent authorities to restrain the auction proceeding of seized vehicle bearing no. BR06PB-8119 for which by way of newspaper publication date of auction has already been fixed on 17.03.2017 without affording proper and appropriate opportunity to pay the demand of the respondents State Bank of India for which the petitioner is ready to deposit in instalments taking liabilities of the loan.
- (ii) For issue of any appropriate writ or writs, rule or



direction to the respondent State Bank of India to release the vehicle bearing No. BR06PB-8119 in favour of the petitioner so that he may earn from the vehicle and pay the instalment money regular on time.

- (iii) For issuance of any appropriate writ or writs, rule or direction as your Lordships may deem fit and proper to the facts and circumstances of the case as well as for which the petitioner may be found entitled to.

2. Learned counsel for the petitioner submits that the respondents have acted arbitrarily in seizing the vehicle on 19.09.2017. On an earlier occasion the vehicle was seized on 23.02.2017, but was released on 16.03.2017 when the petitioner made payment of Rs. 1,25,000/- on 16.03.2017 and thereafter further amount of Rs. 1,30,000/- was paid on 22.03.2017. The petitioner was required to make payment of Rs. 8,16,330.89 with interest and other charges and thereafter the vehicle has been put on auction in terms of auction notice published on 11.10.2017.

3. Learned counsel for the respondents on the other hand, opposes the writ petition submitting that as the petitioner had made payment on 16.03.2017 the vehicle was immediately released on the same day and apart from further payment of Rs. 1,30,000/- on 22.03.2017 the petitioner has not made any further payment leading to seizure and putting the vehicle on auction. Learned counsel for the respondent-Bank states on instruction that the vehicle has since



been auctioned on 30.12.2017 for Rs. 4,60,000/- and an amount of Rs. 4,26,130/- after deduction of expenses etc., has been deposited against the petitioner’s loan account.

4. Considering the default made by the petitioner failing to making payments after 22.03.2017, there appears little reason to interfere in the matter. Moreover, in view of the stand taken by the respondent-Bank to the effect that the vehicle has already been auctioned and the proceeds thereof adjusted against the loan account, the present writ petition itself has become infructuous and the same is accordingly dismissed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
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