IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15069 of 2018

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1. M/s Surya Automobiles, At Resident of Suraj Nagar, Post Akauna Bazar, P.S. Mufassil, District- Nawada, through it's Partner Binay Kumar @ Binay Kumar Singh.
2. Anirudh Prasad Singh, Son of Late Suraj Dev Prasad Singh, Resident of Suraj Nagar, Post Akauna Bazar, P.S.- Mufassil, District- Nawada.
3. Binay Kumar Singh @ Binay Kumar, Son of Late Ram Nandan Prasad Singh, resident of Suraj Nagar, Post Akauna Bazar, P.S. Muffasil, District- Nawada.
4. Smt. Radha Devi, Wife of Late Bhushan Prasad Singh, resident of Suraj Nagar, Post Akauna Bazar, P.S. Mufassil, District- Nawada.

... ... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Finance Department Govt. of Bihar, Patna.
2. The Zonal/General Manager, Central Bank of India, 2nd Floor, Maurya Lok Complex Patna, Bihar.
3. The Regional Manager Central Bank of India, Regional Office, 2nd Floor Maurya Lok Complex, Patna, Bihar.
4. The Authorized, Officer, Central Bank of India, Zonal Officer 2nd Floor, Maurya Lok Complex, Patna, Bihar.
5. The Branch Manager, Central Bank of India, Branch Nawada, Kadam Kuan Chauk, Station Road, Nawada.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Advocate

For the Respondent/s : Mr. Ajay Kr.Rastogi -AAG10

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date : 07-08-2018

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the Respondent- Central Bank of India.

Petitioners seek quashing of auction sale notice published in the daily newspaper, Dainik Bhaskar dated 20.07.2018, Annexure-4 fixing the E-auction through tender sale of dwelling house of petitioner nos. 2 to 4 fixing 10.08.2018 as the date of auction.

Learned counsel for the petitioners submits that it is the only dwelling house of the petitioners and would be thrown on the streets if the said building with equipments are auctioned. He submits that they are ready to make payment now but would not be able to pay the entire loan amount.

Learned counsel for the Respondent Bank however submits that in the earlier round of litigation in CWJC No. 4487 of 2017 this Court vide order dated 25.01.2018 disposed of the said writ application on the basis of the compromise entered into between the parties and as per the compromise petitioners had to pay the due amount by 19.09.2017, but they failed to carry out the terms and conditions of the compromise petition. It was found that the petitioners had defaulted in the compromise reached between the parties and recovery could not be made by the Respondent Bank of the due amount. When the compromise failed, the petitioners again approached this Court in CWJC No. 11746 of 2018 and this Court disposed of the writ application on 03.07.2018 that the petitioners have defaulted and not stood up to the terms of the compromise and Bank is at liberty to recover the due amount.

Learned counsel for the petitioners submits that they are ready to pay the entire amount within two months with all expenses, cost.

However, learned counsel for the Bank submits that there is an amendment in Section 13(8) of the SARFAESI Act that all the payments has to be paid by the debtor before the date of publication of notice for public auction and notice has already been invited on 20.07.2018, Annexure-4 fixing the date of auction as 10.08.2018.

This writ application is disposed of with liberty to the petitioners to make the entire payment before the date of auction i.e. 10.08.2018. If entire payment is made by the petitioners, they shall not be dispossessed from their dwelling house.

(Nilu Agrawal, J)

Arjun/Pragya

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.08.2018
Transmission Date	NA