IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9671 of 2017

==

Awadhesh Kumar @ Awadhesh Kumar Singh S/o Late Haribansh Rai, Resident of Village- Mahua Singh Rai, Block- Mahua, P.O. and P.S.- Mahua, District- Vaishali Bihar.

... ... Petitioner/s

Versus

1. Bank Of Baroda, Main Branch, Cinema Road, Hajipur P.O.- Hajipur, P.S. - Hajipur Town, District – Vaishali, Bihar, through its Branch Manager.
2. Sri Shakti Prasann Nayak, Chief Manager, Bank of Baroda, Regional Office, Bihar, S/o Late Brhamanand Nayak, Resident of Plot No.- 1, Madhusudan Nagar, Bhwaneshwar- 751001, Indian Citizen, PAN No. AAMPN 891511.
3. Sri Yogendra Kumar, S/o Sri Ram Shewak Das, Resident of Village- Mithanpura, P.O.- Ramna, P.S.- Mithanpura, District- Muzaffarpur, Indian Citizen, PIN Code- 842002, PAN No. AGZPK 21841.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr.Satya Prakash Sinha, Advocate
For the Respondent/s	:	Mr.Ratnesh Nandan Sinha, Advocate
		Mr. Purshottam Prasad, Advocate

==

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 22-08-2019 Heard learned counsel for the petitioner and learned counsel for the Bank of Baroda.

The present writ application has been filed raising a grievance that the order dated 21.08.2013 passed in S.A. No. 39 of 2013 by the Debts Recovery Tribunal, Patna is not being complied with by the Bank.

Learned counsel for the Bank is correct in saying that the petitioner had adequate remedy available under the provisions of the Securitization and Reconstruction of

Financial Assets & Enforcement of Security Interest Act, 2002 (hereinafter referred to as the “Act of 2002”) against any action which may be taken by the Bank in exercise of it’s power under Section 13(4) of the Act of 2002. It is submitted that the impugned order would show that the property in question has already been sold and the sale certificate has been issued in favour of the auction purchaser.

In these circumstances, when the auction sale of the property has not been set aside and the sale certificate still exists, the petitioner cannot exercise his right to redemption. It is submitted that the writ application has been filed before this court almost four years after the order dated 21.08.2013 was passed. It is further submitted that in the facts of the case that the property has already been sold to a third party and a right has been created in his favour, this court in exercise of it’s writ jurisdiction cannot direct the Bank to accept any amount from the petitioner in installments and to return the mortgaged deeds of the property.

In the given facts and circumstance of this case, the court is of the considered opinion that the nature of the relief prayed in the writ application cannot be granted by this court on the face of the fact that the property in question has already been auction sold and a sale certificate has been issued which has not been disturbed or set aside by the Debts Recovery Tribunal. Moreover remedy of the petitioner lies within the statute itself.

The Writ Application has, thus, no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U			