IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25106 of 2018

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Ashok Kumar Raut Son of Late Pulkit Raut, Proprietor of M/s Modern Vaishnavi Auto Mobiles, at Mangrauni, near Gumti No. 13, Anchal Raj Nagar, P.O. Mangrauni, P.S. Raj Nagar, District- Madhubani.

... ... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Madhubani, Collectorate, District Madhubani.
2. The Authorized Officer, Central Bank of India, Regional Office, Alalpatti, District Darbhanga.
3. The Branch Manager, Central Bank of India, Ganga Sagar Chowk, Bus Stand Road (Branch Code 53), District-847211.
4. Sri Aman Kunal son of late Ashok Kumar Pangiyar, Mohalla Maharajganj, Ward No. 13, District - Madhubani- 847211.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr.Nilesh Kumar
For the State	:	Miss Rashmi Bharti AC to SC-21
For the Bank	:	Mr.Ajay Sinha, Advocate
For the Res. No. 4	:	Mr.Sanjay Singh Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

7 30-04-2019 Heard learned counsel for the parties.

Today, while the court was expecting that the petitioner would abide by his submissions made before this Court on 15.04.2019 as also on the subsequent dates by making payment of the entire closure amount and other amount to save the property but what has been submitted before this Court on behalf of the petitioner would lead to this Court to believe that the indulgence obtained by the petitioner giving a belief that the petitioner is seriously looking to liquidate the outstanding dues to save his property was a mere pretext.

Learned counsel for the petitioner has come out with a new submission stating that now the petitioner be granted three months time to make payment of the closure amount. Till date the Court was given to understand that the petitioner is ready and willing to deposit the entire outstanding amount with some panel amount which may be allowed to the auction purchaser.

This willingness of the petitioner was, thus, being recorded by this Court in its previous orders. It appears to this Court now that the petitioner has only wasted the time of the Court by seeking adjournment from time to time in the name of doing some exercise to liquidate the loan amount.

On merit learned counsel for the petitioner has only submission that there was some defect in the valuation of the property. This Court finds from the record that the valuation report which has been brought on record by the petitioner with the writ application is dated 06.03.2017 which is post sale valuation report. The e-auction sale had taken place on 23.02.2017. The valuation report was never objected on behalf of the petitioner. As regards the valuation report, the only plea which was taken in the application filed vide S.A. No. 27 of 2017 before the Debts Recovery Tribunal at Patna (hereinafter referred to as 'the Tribunal') that the Bank has fixed the reserve price of the property for Rs. 71.63 lacs which is half of the valuation of the property. So far as valuation report is concerned, the pleading available at Annexure ‘11’ to the writ application, at least, nowhere shows that the petitioner had ever challenged the valuation report on receipt of sale notice, by way of adequate pleading. The Tribunal has dealt with the submissions of learned counsel representing the petitioner before the Tribunal by taking note of the fact that the applicant before the Tribunal had admitted that the e-Auction sale notice has been received by the applicant but at that point of time the applicant had not raised any objection before the Bank regarding low valuation and further that the applicant had not filed any documentary proof by producing the valuation of the adjacent properties. The Tribunal, therefore, has refused to accept the oral submissions of learned counsel for the petitioner disputing the low valuation of the property.

When the order of the Tribunal was challenged before the appellate authority in Appeal S.R. No. 156 of 2017 again the appellate authority had considered the submissions in this regard in Paragraph 14 of its judgment which reads as under :-

> “14. So far as the valuation of the property is concerned, there is no dispute on the settled proposition of law as laid down by the Hon’ble Supreme Court in Ram Kishun Vs. State of Uttar Pradesh (Supra) and I Gajraj Jain Vs. State of Bihar (Supra) and the Hon’ble Orissa High Court in Swastik Agency V. State Bank of India (Supra) that the Bank is required to fetch the highest value of the property strictly following the procedure, but in the instant case, there appears to be no procedural flaw in selling the property. The Bank obtained the valuation report from the authorized

> valuer. The appellant has not raised any objection on the reserve price after receipt of the sale notice and even no objection was raised at the time of sale, so the story of less reserve price seems to be prepared after thought. Secondly, the valuation as submitted by the appellant was prepared after the sale of the property and no proof has been placed on record that any other property adjacent to the property in question or in its vicinity has been sold at higher rates in the near past. Thus, the appellant has failed to prove that the property was not sold at proper market rate."

It is a matter of record that the sale certificate has already been issued in favour of the respondent no. 4 who has deposited the entire consideration amount and has acquired a right to get executed and registered a sale deed. Neither the contention of the learned counsel for the petitioner on merit nor the conduct of the petitioner shows that the petitioner is contesting this writ application with any bona-fide intention. The whole attempt is to delay the finality of the transaction which had taken place in the month of February, 2017.

This writ application is, thus, dismissed with a cost of Rs. 10,000/- against the petitioner which will be realized by the Bank.

(Rajeev Ranjan Prasad, J)

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