

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3322 of 2019

Saroj Bala Singh Wife of Late Ajit Singh, Resident of L/40, Road No. 20,
Shri Krishna Nagar, P.S.- Budha Colony, District- Patna.

... .. Petitioner

Versus

1. The UCO Bank through its Branch Manager, Frazer Road, LIC Building, Patna.
2. Manish Singh, Son of Late Ajit Kumar Singh, Resident of L/40, Road No. 20, Shri Krishna Nagar, P.S.- Budha Colony, District- Patna.
3. Recovery Officer, Debt Recovery Tribunal, Ashiyana Digha Road, Patna.
4. Sri Manish Kumar, Auction purchaser, through Branch Manager, UCO Bank, Fraser Road, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 24804 of 2018

Manish Singh S/o Late Ajit Kumar Singh Managing partner Nav Nirman Builders resident at L-40, Road no. 20, Shri Krishna Nagar, P.S. Budha Colony, Patna

... .. Petitioner

Versus

1. The U C O Bank Frazer Road Branch, LIC Building, Patna through its Branch Manager.
2. The Zonal Head, UCO Bank Maurya Lok Complex Dakbunglow Road, Patna.
3. The Debts Recovery Tribunal, Karpuri Thakur Sadan, Ashiana Digha Road, Patna- 800025 through the Registrar.
4. Manish Kumar S/o Late Raj Muran Singh, R/o Sheikhpura, P.S. Shastri Nagar, P.O. B.V. College, Patna.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 3322 of 2019)

For the Petitioner/s	:	Mr.P.K. Sahi, Senior Advocate Mr.Vikas Kumar, Advocate
For the Res. No. 3	:	Mr. S.D. Sanjay, ASG Mrs.Kanak Verma, CGC
For the Bank	:	Mr. Ranjeet Pandey, Advocate
For the Res. No. 4	:	Mr.Sandeep Kumar, Advocate Mr.Sanjay Singh Thakur, Advocate Mr.Alok Kumar, Advocate

(In Civil Writ Jurisdiction Case No. 24804 of 2018)

For the Petitioner/s	:	Mr.Kaushlendra Kumar Sinha, Advocate
For the Respondent/s	:	Mr.Ranjeet Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD



ORAL ORDER

6 16-10-2019 Heard learned Senior Counsel for the petitioners, learned Senior Counsel representing the Recovery Officer, Debts Recovery Tribunal, learned counsel for the Auction Purchaser, learned counsel for the Bank and learned counsel for the petitioner in C.W.J.C. No. 24804 of 2018.

With the consent of the parties both the writ applications are being disposed off vide this common order in the following terms :-

(1). So far as the impugned order dated 20.06.2018 passed by Recovery Officer, Debts Recovery Tribunal, Patna (in short the 'Tribunal') in R.P. Case No. 15 of 2014 is concerned, the same being an appellable order in terms of the Section 13 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the 'Act of 1993'), learned Senior Counsel for the petitioner submits that he may be granted liberty to avail the remedy of appeal before the Presiding Officer, Debts Recovery Tribunal.

In such view of the matter, learned counsel for the respondents have no objection to the petitioner availing the remedy before the Tribunal in accordance with law.

If such a remedy is applied for it will be open for the parties to raise all such issues which may be available to them.



(2). In C.W.J.C. No. 24804 of 2018 the petitioner has prayed for quashing of the e-auction sale held on 29.11.2018 in which the property belonging to him and his mother Smt. Saroj Bala Singh (Petitioner in C.W.J.C. No. 3322 of 2019) has been sold.

The petitioner has got an adequate alternative remedy of challenging the e-auction sale under the provisions of the Act of 1993 itself and as such learned counsel for the petitioner, as prayed, is permitted to seek the statutory remedy in accordance with the provisions of the Act of 1993.

(3). The parties agree and even during the submissions which have been recorded by this Court on 22.08.2019 Mr. S.D. Sanjay, learned Senior Counsel representing the Recovery Officer has made a specific submission that in the facts and circumstances of the case the order dated 24.06.2019 passed by the Recovery Officer-1, Debts Recovery Tribunal Patna may be set aside.

The order dated 24.06.2019 passed by the Recovery Officer-1 is, thus, hereby set aside. The said order has been discussed in detail in the previous order and that has led to taking a view that the order dated 24.06.2019 be set aside. The Recovery Officer is directed to pass a fresh order after hearing all concerned and taking into consideration the pendency of the appeal before the Debts Recovery Appellate Tribunal in which an interim order



dated 15.07.2019 is operative.

Mr. S.D. Sanjay, learned A.S.G. has submitted that in order to do away with any kind of allegation of biasness he would advise the Recovery Officer-1 to transfer the records of this case to any other Recovery Officer. Learned counsel for the respondent-Auction Purchaser has no objection to the same. Let it be done accordingly.

(4). Initially, when the matter was heard on 27.06.2019 learned Senior Counsel representing the petitioner had raised an issue referring to Section 135 of the Contract Act and made a submission that once the Bank has accepted the compromise proposal of the principal debtor and pursuant thereto the principal debtor has deposited the amount, the petitioner being a surety stands discharged. Although the submission of learned Senior Counsel for the petitioner that the principal debtor has deposited the compromised amount has been disputed by the learned counsel for the Bank, at this stage this issue is not being gone into as learned Senior Counsel for the petitioner has submitted that the same may be left open for consideration before the appropriate court/Tribunal as and when occasion so arises in course of the proceeding.

(5). Learned counsel for the auction purchaser has, at this stage, made a submission that because of the delay in getting



the fruits of the money which he has deposited with the Bank towards the purchase of the property, now he is looking for refund of the entire money with adequate interest/compensation. This Court will not take any view on this issue in the present proceeding. It is, however, always open for the auction purchaser to pursue his remedy whatsoever available to him in accordance with law.

Let the records be transferred to the appropriate Recovery Officer within a period of 15 days from the date of receipt/production of a copy of this order.

Both the writ applications are, thus, disposed off in terms stated hereinabove.

Let the cause list of the Debts Recovery Tribunal which is kept in the envelope and was directed to be placed in the possession of the learned Registrar General of this Court be returned to Mr. S.D. Sanjay, learned A.S.G. or Mrs. Kanak Verma, learned C.G.C.

(Rajeev Ranjan Prasad, J)

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