IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11739 of 2019

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Sri Sunil Kumar Raushan, Male, aged about 39 years, son of Sri Mrityunjay Prasad Singh, resident of Village - Gachiya, Dhoraiya, Banka, District - Banka.

... ... Petitioner

Versus

1. The Registrar, The Debts Recovery Tribunal Bihar, Patna
2. Uco Bank, Zonal Office-S.K. Tarafdar Road, Adampur, Bhagalpur.
3. Authorised Officer, UCO Bank, Zonal Office-S.K. Tarafdar Road, Adampur, Bhagalpur.
4. Branch Manager, UCO Bank, Dhoraiya Branch, District - Banka.
5. M/s Rajni Store, Proprietor-Mrs. Meena Devi (Singh) (died), W/o Sri Rajesh Kumar Singh, at - Beldiha, P.O. - Ahiro, Dhoraiya, District - Banka., (Borrower).
6. Sri Rajesh Kumar Singh, S/o Sri Sarveshwar Prasad Singh resident of at Beldiha, P.O. Ahiro, Dhoraiya, District - Banka. (Guarantor).

... ... Respondents

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Appearance :

For the Petitioner/s : Mr.Vibhakar Kumar

For the Respondent/s : Mr.Ranjeet Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

3 09-07-2019 This writ application is a frivolous litigation brought by the petitioner indulging himself in wasting time of this court and at the same time causing harassment to the respondents.

In this case the petitioner who is an auction purchaser is aggrieved by order dated 10.01.2019 passed by the Presiding Officer, Debts Recovery Tribunal, Patna in S.A. No. 135 of 2018 (M/s Rajni Store and others vs. UCO Bank) by which after considering the facts and circumstances of the case as also the submission of the parties the Presiding Officer of the Debts Recovery Tribunal, Patna directed the Bank to return back the auction amount to the auction purchaser along with 9% per annum simple interest from the date of receiving of auction amount within 15 days from the date of receiving of copy of the order. A reading of the order dated 10.01.2019 would show that a statement was made on behalf of the auction purchaser before the Debts Recovery Tribunal that he is ready to receive back auction amount with interest from the respondent Bank. In fact it so happened that after the auction sale was conducted and the auction purchaser had deposited the amount with the Bank, the borrower wanted to save his property by redeeming the same and paying the outstanding amount to the Bank. It was agreed by the auction purchaser that if his money is returned with interest he will receive the same and the account would stand settled. The DRT has recorded all these facts in it's order.

Before this court learned counsel for the Bank has made available a copy of the letter dated 31.01.2019 written by the authorized officer of the Bank to the petitioner informing him that a sum of Rs. 11,88,363.23 has been returned through his saving account No. 09530100007324 vide transaction no. AA84748 on 31.01.2019.

Having received the aforesaid amount from the Bank, the petitioner chose to file this writ application on 25.02.2019. In the entire writ application there is no statement that what has been recorded by the Debts Recovery Tribunal in it's order dated 10.01.2019 particularly with regard to the submissions of the auction purchaser being ready to to receive back his auction amount with interest, is not correct. The petitioner has not even chosen to disclose in the writ application that he had already received a sum of Rs. 11,88,363.23 in accordance with the order of the Debts Recovery Tribunal. The Writ Application has been moved alleging that the Debts Recovery Tribunal has not applied it's own mind and did not go through the contents and records of the case and passed the order in a very hasty and mechanical manner.

Initially, learned counsel for the petitioner sought to challenge the order of the Debts Recovery Tribunal, but having realized that the writ application does not disclose the true and correct facts he wanted to withdraw the writ application.

Learned counsel for the Bank has opposed the writ application on the ground *inter alia* that it is in fact a dishonest effort of the petitioner to indulge the Bank and others in this litigation after making statements before the Debts Recovery Tribunal that he would receive the amount with interest and then in fact he has received the amount which facts have not been disclosed in the writ application. Learned counsel submits that the Bank has been unnecessarily burdened with the litigation expenses on account of this writ application.

Having heard learned counsel for the parties and on perusal of the records, this court finds that in the entire writ application there is no denial of the fact that the submissions of the auction purchaser – petitioner before the Debts Recovery Tribunal was that he would accept the amount with interest. The petitioner has not even disclosed that he has received a sum of Rs. 11,88,363.23. In fact, after receiving amount the present writ application was filed.

In these circumstances, finding that it is a frivolous litigation and the Bank which is the custodian of the public exchequer has been made to suffer on account of litigation expenses, this court while dismissing the writ application as withdrawn would impose a cost of Rs. 25,000/- (Rupees Twenty Five Thousand) against the petitioner for indulging in this frivolous litigation causing expenses to the Bank.

The petitioner shall pay the cost of litigation to the Bank within a period of 30 days from today and the receipt thereof shall be filed in the Registry of this court within next one week after expiry of 30 days period.

The writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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