

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16409 of 2016

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Mrs. Malti Sinha W/o Mithilesh Prasad 605A, Dwarkapuri Road No. 1,
Hanuman Nagar, Kankarbagh, Patna - 800001.

... .. Petitioner/s

Versus

1. The State Bank Of India and Ors
2. The Union of India through Recovery Officer-I, Debt Recovery Tribunal,
Patna.
3. Mr. Ajay Kumar Dubey S/o Late S.P. Dubey R/o Flat No. 101, Gopal Sharan
Apartment, Yarpur Road, Patna.
4. Mr. Ram Prawesh Chourasia S/o Late Jaldhar Chourasia R/o Chourasia
Market, Bahadurpur, Ward No. 26, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Arbind Kumar Jha, Advocate
For the Res. 2	:	Mrs. Punam Kumari Singh, Advocate
For Res. No. 3 and 4	:	Mr. Ajay Kumar Sinha, Advocate
		Mrs. Manini Jaiswal, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 14-11-2019 Respondents No. 3 and 4 have already appeared,

hence, the writ application has been heard for final disposal.

Initially Mr. Jha, learned counsel for the petitioner tried to persuade this Court by drawing a distinction in case case of ‘irregularity in conduct of sale’ and in case of ‘no sale’ in the eye of law. As according to him, the auction purchaser in the present case had failed to deposit 25% of the auction amount immediately in terms of Rule 27 of the Schedule II of the Income Tax Act 1961 (hereinafter referred to as the ‘Act of 1961’), But very soon, on opposition made by learned counsel



for the auction purchaser saying that the petitioner had failed to file any objection before the Recovery Officer in terms of Rule 60 of the Schedule II of the ACt of 1961 for setting aside of the sale and thereby waived her right to challenge the sale in question, learned counsel for the petitioner submits that he may be permitted to withdraw this writ application with liberty to seek the remedy, if any, available to him/her against the confirmation of sale by the Recovery Officer vide order dated 18.06.2016, before an appropriate forum.

Learned counsel for the auction purchaser has submitted that the petitioner having failed to file any objection or petition for setting aside of the sale, cannot be allowed to challenge the same at this stage.

Without going into the merit of the contentions of the parties, since prayer has been made on behalf of the petitioner to withdraw this writ application with liberty to avail any other remedy available to her in accordance with law, this Court permits the petitioner to withdraw this writ application with the liberty as prayed for. All contentions are left open to the parties.

In case the petitioner applies for a remedy before a competent court/forum and an issue of limitation arises for consideration, the same will be considered keeping in view the



period spent by the petitioner before the Court in the present
writ application.

The petition stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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