IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11947 of 2019

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M/s. Vidyawati Sales Corporation situated at D/71, P.C. Colony Kankarbagh, P.O.- Lohianagar, P.S.- Kankarbagh Town and District- Patna through Manoj Kumar, Proprietor of M/s Vidyawati Sales Corporation, aged about 41 years, male, Son of Lakshman Ray Resident of Lal Sadan Sahdeo Giri Road Near Sahdeo Mandir Katira P.O. Nawada P.S.- Nawada, District- Ara Bhojpur at present J-6 PC Colony Kankarbagh P.S. Kankarbagh District Patna.

... ... Petitioner/s

Versus

1. Canara Bank through its Senior Manager, Circle Office- 4th Floor Lavkush Tower, Exhibition Road, Patna.
2. Senior Manager, Canara Bank, Circle Office, 4th Floor, Lavkush Tower, Exhibition Road, Patna.
3. The Branch Manager, Canara Bank Jail Road, Ara Bihar.
4. Shri Praduman Kumar Bhaskar Son of Nunu Babu Jha Resident of Teacher's Colony, Kuturia, Near Dairy Farm, Ara, District- Bhojpur, Bihar 802301.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Manoj Kumar, Adv.
		Mr. Raj Narayan Mishra, Adv.
For the Respondent/s	:	Mr.Sanjay Singh Thakur, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 18-06-2019 The petitioner has moved this Court alleging that during the pendency of the statutory appeal preferred by him before the Debts Recovery Appellate Tribunal at Allahabad vide Appeal No.176 of 2019 for setting aside the judgment and order dated 27.05.2019 passed by the Presiding Officer, Debt Recovery Tribunal, Patna in S.A. No.155 of 2018, the respondent Bank has moved to physically dispossess the petitioner from the residential premises in question. It is submitted that presently the Debts Recovery Appellate Tribunal

is on vacation and it is not possible for the petitioner to get an interim protection from the Tribunal, therefore, in order to protect the lis, it is necessary that an interim order be passed by this Court directing the respondents to maintain status quo as on today.

In order to show his bonafide, learned counsel for the petitioner has drawn the attention of this Court towards the statement recorded in the judgment of the Debts Recovery Tribunal in S.A. No.155 of 2018 wherein it is stated that the applicant is ready to deposit the entire amount as decided by the Tribunal in O.A. No.9 of 2008 in which recovery of certificate amount of Rs.70,99,031/- along with pendentelite and future interest @ 10% p.a. simple from 27.06.2017 till realization in full has been issued. Attention of this Court has also been drawn towards the fact that the petitioner had produced bank draft of total amount of Rs. 42,32,500/- and a sum of Rs.28 lacs is already lying deposited with the Appellate Tribunal. Learned counsel for the petitioner submits that till date the sale deed of the property has not been executed in favour of the auction-purchaser and in such circumstance if the petitioner is ready and willing to pay the entire dues of the certificate, this Court may exercise its discretion to grant ad-interim protection to the petitioner at this stage.

Learned counsel representing the Bank submits that his instruction is that the bank has already obtained the physical possession of the property in question and, therefore, the interim protection sought for on behalf of the petitioner will be of no avail. He has opposed the prayer of the petitioner in the writ application.

Having heard learned counsel for the parties, since this writ application has been preferred on the ground that during the pendency of the appeal before the Appellate Tribunal at Allahabad steps are being taken to oust the petitioner from the physical possession of the property and that presently the Appellate Tribunal is not holding its sitting as it is on vacation and is likely to reopen from 24th June, 2019, this writ application is being disposed off by directing the respondent bank to maintain status quo as on today and in case the physical possession of the property has not been taken by 12.30 PM today, the same shall not taken by the bank for a period of four weeks from today. This will make available three weeks time to the petitioner to file an appropriate application before the Debts Recovery Appellate Tribunal on its opening on 24th June, 2019 and pray for interim relief if any advised. The interim order passed by this Court shall automatically come to an end on expiry of four weeks time from today. This order is being passed only to protect the lis which is already pending before the Debts Recovery Appellate Tribunal at Allahabad and it shall not be construed as any opinion of this Court on the merit of the case.

(Rajeev Ranjan Prasad, J)

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