

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13968 of 2013

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M/S M.K.Electricals Works Through Its Proprietor Mr. Mahesh Kumar S/O
Sri Ram Sewak Singh Resident Of Daud Bigha, Kankarbagh Main Road,
Patna - 26

... .. Petitioner/s

Versus

1. Presiding Officer, Debt. Recovery Tribunal, Patna Bank Road, Lodipur, Patna - 01
2. Chairman Cum Managing Director, Central Bank Of India, Chandramukhi, Narimanpoint, Mumbai - 400021
3. Senior Regional Manager, Central Bank Of India Maurya Lok Complex, Block - B, 2nd Floor, Near Dak Bunglaw Chauraha, Bailey Road, Patna - 01
4. Chief Manager Cum Authorized Officer, Central Bank Of India, Rajendra Nagar Brach, Patna - 26
5. Sri Arun Kumar S/O Late Ramdeo Prasad Singh Resident Of Mohalla - Laljee Tola, Patna - 01
6. Smt. Nilu Kumari W/O Sri Ashok Kumar Resident Of Mohalla - Laljee Tola, Patna 01

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abhay Kumar Sinha, Adv.
For the Respondent/s : Mr.Ajay Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 08-01-2019 The only issue raised by the petitioner in the present writ application is that a property which has been auction sold in connection with the SARFAESI action taken by the Bank was not mortgaged with the Bank. It is submitted that even though, the said property was not mortgaged with the Bank and the original title of the said property is lying in the possession of the petitioner,the Bank has proceeded with the auction.

Learned counsel submits that he had been trying to impress upon the Presiding Officer, Debts Recovery Tribunal in SARFAESI Appeal No. 137 of 2012 to this effect but the



Presiding Officer of the Tribunal wrongly disposed of the SARFAESI application without appreciating the submissions of the petitioner. It is submitted that Miscellaneous Application preferred by the petitioner against the order dated 20.02.2013 (Annexure 4) passed in SARFAESI Appeal No. 137 of 2012 was also dismissed as not maintainable. The order passed in M.A. 117/2013 is Annexure 5 to the writ application. These two orders are under challenge in the writ application.

Mr. Ajay Kumar Sinha, learned counsel representing the Bank submits that the petitioner has been repeatedly taking this plea that he is in possession of the original title deed of the property which has been sold in the auction but despite several times granted to him he failed to produce the original title deed of the property before the Presiding Officer. It is submitted that if it is the case of the petitioner that he is in possession of the original title deed of the property which has been sold in the auction, he should have no hesitation in producing the same before the Tribunal. Still, it is pointed out that the Tribunal in its order dated 20.02.2013 in SARFAESI Appeal No. 137/2012 gave liberty to the petitioner to file a fresh application with proper record of the property if he so, desires. It is the submission of Mr. Sinha that despite opportunity given to the



petitioner in the order of the Debts Recovery Tribunal itself, he has burdened this Court by filing this writ application. It is submitted that once the Presiding Officer of the Tribunal passed final order on 20.02.2013, there is no reason for maintaining the Miscellaneous Application and, therefore, the same has rightly been held not maintainable vide Annexure 5 to the writ application.

Having heard learned counsel for the parties and on perusal of the records, this Court is of the considered opinion that the writ application is a mere abuse of the judicial process. The order dated 20.02.2013 clearly provides liberty to the petitioner to file a fresh application with proper record of property if he so desires. In case the petitioner is in possession of the original title deed of the property which has been put on auction, he has still an opportunity to show the same before the Debts Recovery Tribunal in a duly constituted application.

So far as this writ application is concerned, it is devoid of merit and is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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