

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13571 of 2019

Prakash Kumar S/o Late Rajeshwar Prasad Village- Sadapur Mahua, P.O. and P.S.- Mahua, District- Vaishali. At Present residing at 481, F- Block Vikaspuri, Delhi.

... .. Petitioner/s

Versus

1. The UCO Bank through its Managing Director having its Head Office at UCO Bank Head Office, 10, BTM Sarani, Kolkata- 700001 (West Bengal).
2. The Zonal Manager UCO Bank, Zonal Office, Patna.
3. The Recovery Senior Manager UCO Bank, Zonal Office, Patna.
4. The Senior Manager UCO Bank, Zonal Office, Patna.
5. The Authorised Officer UCO Bank, Zonal Office, A-Block, 4th Floor, Mauryalok Complex, New Dak Bunglow Road, Patna- 800001.
6. Mr. Sanjay Rai Recovery Agent, UCO Bank, Patna.
7. Abhishek Anand @ Abhishek Prasad, Proprietor of M/s, Care Zone Son of Late Maheshwar Prasad Verma Resident of Village- Sadapur Mahua, P.O. and P.S.- Mahua, District- Vaishali, Office of situated at C/o Ramanand Prasad Verma, Retired IAS, Mohan Industries Road, New Yarpur, Patna-1.
8. Mukteshwar Prasad Verma, Proprietor of M/s. Laxmi Traders Son of Late Maheshwar Prasad Verma Resident of Village- Sadapur Mahua, P.O. and P.S.- Mahua, District- Vaishali, Office of situated at C/o Ramanand Prasad Verma, Retired IAS, Mohan Industries Road, New Yarpur, Patna-1.
9. Kaushal Kumar Srivastava @ Kaushal Kumar S/o Late Gopal Prasad Srivastava Resident of Village- Sadapur Mahua, P.O. and P.S.- Mahua, District- Vaishali.
10. Manoj Kumar Srivastava S/o Late Gopal Prasad Srivastava Resident of Village- Sadapur Mahua, P.O. and P.S.- Mahua, District- Vaishali.
11. Pawan Kumar S/o Late Gopal Prasad Srivastava Resident of Village- Sadapur Mahua, P.O. and P.S.- Mahua, District- Vaishali.
12. Rakesh Kumar S/o Late Rajeshwar Prasad Resident of Village- Sadapur Mahua, P.O. and P.S.- Mahua, District- Vaishali.
13. Ravi Shankar Prasad Verma S/o Late Narmdeshwar Prasad Resident of Village- Sadapur Mahua, P.O. and P.S.- Mahua, District- Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Satish Kumar Sinha
For the Respondent/s : Mr.Ranjeet Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER



2 05-07-2019 Petitioner in the present case is seeking a direction to declare the E-auction notice dated 15.03.2019 as contained in Annexure-1 to the writ application anullity and a direction is being sought against the respondent bank not to take any coercive step against the property in question.

It appears from the narration of the facts in the writ application that pursuant to the notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (hereinafter referred to as the 'Act of 2002') the bank has proceeded to take action under Section 13(4) of the Act of 2002. The respondent nos.9 to 12 who are the co-sharers of this petitioner have moved the Debts Recovery Tribunal by filing securitisation application no.51 of 2019 on 13.03.2019 which is still pending there. It further appears that the bank has proceeded to take action towards the E-auction. The petitioner now wants that this Court should exercise its writ jurisdiction to declare the E-auction null and void.

Learned counsel for the bank submits that E-auction was fixed on 15.03.2019 which has already been conducted, sale certificate has been issued in favour of the auction purchaser and physical possession of the property has also been handed over to him. It is further submitted that in fact in view of the alternative statutory remedy available to the petitioner under Section 17 of the



Act of 2002 writ application is even otherwise not fit to be entertained.

Having heard learned counsel for the parties, this Court finds force in the submission of learned counsel representing the Bank. Petitioner has moved this Court challenging the E-auction sale notice against which he has an equally efficacious statutory remedy of filing a securitisation application in terms of Section 17 of the Act of 2002. Instead of availing the appropriate remedy, the petitioner has chosen to move this Court under Article 226 of the Constitution of India. Even otherwise, this Court has been informed that the E-auction has already taken place and the secured asset has been sold.

This writ application has thus no merit. It is dismissed accordingly.

However, it goes without saying that, the petitioner is at liberty to avail such other remedy/remedies which may be available to him against the action of the bank in accordance with law.

(Rajeev Ranjan Prasad, J)

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