

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19637 of 2016

M/s A. B. Automotives Private Limited, an incorporated company having its registered office situated at Singhaul, NH 31, Begusarai through one of its Director namely Ajit Kumar Choudhary, Son of Vijay Kumar Choudhary, Resident of Village- Chakdaulat, P.S.- Ujiyarpur, District- Samastipur.

... .. Petitioner/s

Versus

1. The Chief Manager-cum-Authorized Officer, State Bank of India, Barauni Refinery, Township Branch, Begusarai.
2. The Chief Manager (Rural) State Bank of India, Regional Branch Office (R.B.O.), Begusarai, Above G.S. Motors, N.H. 31, Harhar Mahadev Chowk, Begusarai.
3. The Regional Manager, Regional Branch Office (R.B.O.), State Bank of India, Begusarai, Above G.S. Motors, N.H. 31, Harhar Mahadev Chowk, Begusarai.
4. The Debt Recovery Tribunal, A & B wing, 5th Floor, Karpuri Thakur Sadan, Kendriya Karyalay Parisar, Near Rajeev Nagar Police Thana, Ashiana Digha Road at Patna- 800024 through its Presiding Officer.
5. The Recovery Officer, Debt Recovery Tribunal, A & B wing, 5th Floor, Karpuri Thakur Sadan, Kendriya Karyalay Parisar, Near Rajeev Nagar Police Thana, Ashiana Digha Road at Patna- 800024.
6. Debts Recovery Appellate Tribunal, Allahabad, 147-A- 58/A, Jawahar Lal Nehru Road, Tagore Town, Allahabad- 211003 through its Chairperson.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chittranjan Sinha, Sr. Advocate
		Mr. Arun Kumar, Advocate
For the Respondent/s	:	Mr. Sanjesh Prasad, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

14 11-01-2019

Re. I.A. No. 161 of 2019

Heard Shri Chittranjan Sinha, learned counsel for the
applicant.

The writ petition in which the present application has
been filed, the petitioner has prayed for a certiorari to quash the



auction sale notice dated 06th of November, 2016. It appears that an interim protection was granted to the petitioner-applicant on 19.12.2016 subject to a deposit of rupees one crore.

A Division Bench on 16th of May, 2017 taking notice of the default vacated the interim order and also observed that the respondents are free to proceed in the matter in accordance with law.

It appears that in the meantime, a fresh auction notice was issued, the auction whereof is said to have been held on 10th of December, 2018.

Learned counsel for the respondent-Bank Shri Sanjesh Prasad submits that the auction has been conducted and the bidder has deposited 25% of the bid amount.

The petitioner filed a fresh CWJC No. 24126 of 2018, that has been dismissed on 8th of January, 2019 leaving it open to the petitioner to move an application in the present writ petition. This is how this interim application has been filed praying for further accommodation in order to comply with the earlier directions of the Court as well as to make certain more deposits. Shri Sinha submits that the petitioner is ready to deposit the entire amount due to the respondent-Bank and, therefore, some breathing time may be granted to him and



the sale may not be given effect to.

In the background aforesaid, we find that the petitioner for some reason did not comply with the directions dated 09.12.2016, as a result whereof, the interim order came to be vacated on 16th May, 2017. It is only after the fresh notice for auction has been issued that the petitioner has come forward with the offers, referred to above. Shri Sinha submits that a discretion can be exercised by this Court even keeping in view the law laid down by the Apex Court in the case of **United Bank of India v. Satyawati Tondon [2010) 8 SCC 110]** as well as the law laid down in the latest decision in the case of **State Bank of Travancore v. Mathew K.C. [(2018) 3 SCC 85]**.

Having examined the aforesaid provisions and keeping in view the aforesaid background in which the petitioner has already defaulted in not complying with the directions of the Court, we are not inclined to exercise any discretion in the matter and we, accordingly, reject Interlocutory Application No.161 of 2019 as well as CWJC No.19637 of 2016 keeping in view the statutory remedies available to the petitioner in this regard. The writ petition, therefore, is consigned without prejudiced to the rights of the petitioner to



avail of any such remedy that may be available to him.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.N.M./Saif/-

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