

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20737 of 2019

Md. Arif Khan S/o Badiuzzaman Khan, resident of 205, Grand Doomri Homes, Exhibition Road, Behind Manday Motors, Patna- 01, Phulwari, Patna, Patna G.P. Bihar- 800001, permanent resident of Akhta House, Dumra Road, Talkhapur, Ward No. 22, Sitamarhi, Chakmahila, Bihar- 843302.

... .. Petitioner

Versus

1. The Allahabad Bank through the Authorised Officer/Manager, Allahabad Bank, Sitamarhi, Bihar- 843302.
2. The Zonal Manager, Allahabad Bank, Om Shanti Complex, Ramna, Muzaffarpur- 842002.
3. Badiuzzaman Khan Memorial Educational and Charitable Trust through its Secretary, registered office at DPS lane, Nahar Chowk, Dumra Road, Talkhapur, Sitamarhi- 843302.
4. Bibi Darakhshan Arzoo Khanum wife of Tarique Khan, resident of Akhta House, Dumra Road, Talkhapur, Ward No. 22, Sitamarhi, Chakmahila, Bihar- 843302.
5. Tarique Khan son of Badiuzzaman Khan, resident of Akhta House, Dumra Road, Talkhapur, Ward No. 22, Sitamarhi, Chakmahila, Bihar- 843302.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Ashhar Mustafa, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-10-2019 Learned counsel for the petitioner submits that the land in respect of which the petitioner had created the lease hold right in favour of the borrower with express condition that the lease lands shall not be subjected to any mortgage, the Bank has accepted the said lease hold land as a secured asset in complete contravention of the conditions of the lease and as such there is no valid creation of security interest in favour of the Bank.

After some argument, learned counsel for the



petitioner prays for withdrawal of this writ application with liberty to approach the Debts Recovery Tribunal against the impugned auction of the Bank.

Permission is granted.

The application is dismissed as withdrawn. It is, however, open for the petitioner to seek his remedy before the Debts Recovery Tribunal and in case such a remedy is applied and a question of limitation arises for consideration, the same will be considered keeping in view that the petitioner was pursuing his remedy before this Court.

The writ application stands disposed off.

(Rajeev Ranjan Prasad, J)

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