

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19445 of 2021

Shiv Shankar Prasad, Son of Late Bindeshwari Prasad, resident of Mohalla - Amgola Parav Pokhar, Lane No. - 02, P.S. - KMP, District - Muzaffarpur, presently residing at Mohalla - Shashtri Nagar, Jai Prakash Path, Lane No. - 06, Musahri, Ramna, Muzaffarpur - 842002.

... .. Petitioner/s

Versus

1. Uttar Bihar Gramin Bank through its Authorized Officer, Pakkisarai Branch, Muzaffarpur, Bihar - 842001.
2. The Authorized Officer/Branch Manager, Uttar Bihar Gramin Bank, Pakkisarai Branch, Muzaffarpur, Bihar - 842001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajni Kant Singh, Advocate Mr. Sameer Sawarn, Advocate
For the Respondent/s	:	Mr. Satyanand Sharma, Advocate Mr. Shailendra Prasad, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-12-2021

Heard learned counsel for the parties.

The petitioner has prayed for the following relief/s :-

- (i) For issuance of writ(s)/order(s)/direction(s) including the writ in the nature of Certiorari to quash and cancel the initiation of proceeding under the Securitization and Reconstruction of Financial Assets and enforcement of Security Interest Act, 2002(hereinafter referred to as "SARFESI ACT") since the initiation of proceeding has been done without giving any notice to the borrower in terms of the Act;
- (ii) For issuance of writ(s)/order(s)/direction(s) including the writ in the nature of Certiorari for quashing the letter dated 16.08.2021 which was



served upon the petitioner on 18.08.2021 when the bank officials came for taking forcible physical possession of the property of the petitioner;

- (iii) For issuance of writ(s)/order(s)/direction(s) including the writ in the nature of Certiorari for quashing the auction notice dated 21.10.2021 by which the property of the petitioner has been put to auction scheduled to be held on 24.11.2021 since this notice has been published in violation of mandatory procedures prescribed under the SARFESI Act, 2002;
- (iv) During the pendency of the present writ petition, the respondents may be restrained from taking any coercive step in pursuance of the proceeding initiated under SARFESI Act, 2002;
- (v) For any other relief / reliefs for which the petitioner is found entitled to on the facts and in the circumstances of the instant case

The petitioner intends to enter into One Time Settlement with the respondent Bank.

Learned counsel for the respondent bank submits that the possession of the dwelling house shall be handed over to the petitioner upon further payment of Rs.1,00,000/- (Rupees One Lac), which the petitioner undertakes to deposit with the respondent bank within a period of one week from today.

Statement accepted and taken on record.

As such, petition stands disposed of in the following mutually agreeable terms:-

- (a) The petitioner shall deposit a sum of ₹1 lac within a period of one week from today with the respondent Bank;



(b) This deposit shall be without prejudice to the respective rights and contention of the parties;

(c) Petitioner shall file a representation before the authority concerned for redressal of the grievance(s), after making deposit of ₹1 lac within a period of one week from today;

(d) The authority concerned shall consider and dispose it of expeditiously, by a reasoned and speaking order preferably within a period of one month from the date of its filing along with a copy of this order and till then no coercive steps shall be taken against the petitioner;

(e) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(f) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(g) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(h) Liberty reserved to the petitioner to approach the



Court, if the need so rises subsequently on the same and subsequent cause of action; and

(i) We have not expressed any opinion on merits. All issues are left open;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	22.12.2021
Transmission Date	

