

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20572 of 2021

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Arun Kumar Verma Son of Mr. Chandradeep Prasad Verma Resident of Flat No. 102, Sudama Enclave, East Boring Canal Road, Chakaram Link Path, P.S. Budha Colony, Patna 800001 at present residing at Elim Apartment, House No.1, Plot No. 80, Bank Colony, Dimapur, Nagaland, Pin 797112.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Financial Services, Ministry of Finance, 3rd Floor, Jeevan Deep Building, Sansad Marg, New Delhi 110001.
2. Bank of India, a Body Corporate Constituted Under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 having its Central Office at Mumbai, Star House, Bandra Kurla Complex, C-5, G Block, Banra (East), Mumbai.
3. The Authorised Officer, Bank of India, Asset Recovery Branch, Zonal Office, Patna Zone, 1st Floor, Chanakya Place, R-Block, Patna- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manish Kishore, Adv
For the Respondent/s : Mr.Dr. Krishna Nandan Singh (ASG)

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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.

Petitioner has prayed for the following relief(s):-

“(a) For issuance of a writ or order/direction restraining the Respondents from holding the auction sale fixed on 27.12.2021 pursuant to the sale notices dated 24.11.2021 and 25.11.2021 in respect of secure assets of the petitioner in view of the pendency of application filed by the petitioner under section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the Act 2002 for short) before learned DRT, Patna, which is pending due to vacancy of the Presiding

Officer of the Debt Recovery Tribunal and in case the writ application is not entertained the petitioner would be remediless as there is no likelihood of posting of the vacancy in near future.

(b) For issuance of a writ or order/direction granting the relief of ad interim status quo in favour of the petitioner since the respondents have decided to proceed with auction of the assets in light of the auction sale notices dated 24.11.2021 and 25.11.2021 and the petitioner has been left remediless as the statutory remedy could not be invoked in absence of the Presiding Officer of the Tribunal as the post is vacant.

(c) To hold and declare that the Respondents cannot proceed against the exclusive property of the Guarantor petitioner till the application filed by the petitioner under section 17 of the Act 2002 is pending before learned DRT, Patna and the petitioner has got the only remedy to get the application heard and decided.

(d) For further holding and declaring that keeping in view the the present circumstances wherein the Bench of learned DRT, Patna is not presided by any Presiding Officer, whether permanent or incharge, the petitioner's case cannot be taken up for hearing even on point of interim relief and therefore the petitioner cannot be rendered remediless.

(e) For further holding and a declaration that the right to legal remedy is one of the constitutional right of the petitioner and therefore in a situation in hand which is exceptional in nature, the respondents be restrained from proceeding against the petitioner till the petitioner gets an opportunity to avail appropriate statutory remedy before learned DRT, Patna upon availability of the Presiding Office.

(f) For a direction to extend the period of OTS as four month times already wasted in the intervening period during imposition of National Lockdown by the State government in order to break the infection of Covid-19 virus.”

Learned counsel for the petitioner seeks permission to withdraw this application.

Prayer is allowed.

This application is dismissed as withdrawn.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA