

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.610 of 2022

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Satish Kumar Son of Mr. Laldhari Sharma, resident of House No. 114, Village and Post-Bihta, P.S.-Bihta, District-Patna, Pin Code-800018.

... .. Petitioner/s

Versus

1. The Authorized Officer Punjab National Bank, Circle Office (South), Chandrapura Palace, 2nd Floor, Bank Road, West Gandhi Maidan, Patna-800001.
2. Punjab National Bank through the Branch Manager, Bihta Branch, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amaresh Kumar Sinha, Advocate
For the Respondent/s : Mr.Arvind Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon’ble the Chief Justice/Hon’ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

2 20-01-2022 Petitioner has prayed for the following relief(s):

“i) For the issuance of a writ in the nature of writ of certiorari or any other appropriate writ or order or direction, quashing the sale notice dated 10.12.2021, published in the Hindi Newspaper “Dainik Bhaskar” on 12.12.2021, whereby the date of e-auction of the property, as mentioned therein, has been fixed on 18.01.2022.

ii) For holding and declaring that the circumstance of the post of the Presiding Officer in the Debts Recovery Tribunal, Patna being vacant, the petitioner cannot be left without a legal remedy.

iii) For further holding and declaring that the right to take recourse to a legal or statutory remedy is the constitutional right of the



petitioner, which could not be exercised on account of the post of the Presiding Officer being vacant.

iv) For any other relief to which the Petitioner may be found entitled.”

Learned counsel for the petitioner states that the only prayer which the petitioner makes is a direction to the Bank to first sell the mortgaged property of the principal borrower whereafter, should the need so arise, sell the property mortgaged by the guarantor.

Well, it is not for this Court to regulate the terms of the agreement entered into in between the parties, more so when the Bank has a right to realize the amount by disposing of the properties as they deem it fit and proper. However, we do see some rationale in the petitioner’s request in first realizing the amount due and payable with the sale of the property mortgaged by the principal borrower.

It is brought to our notice that, at this point in time, the Debt Recovery Tribunal is not functional for none stands appointed as the Presiding Officer.

As such, we are entertaining the present petition with a direction to the petitioner to approach the respondent Bank giving all offers and options, including the ones raised in the instant petition.

We are hopeful that the Bank shall take a decision,



just, fair and reasonable. Petitioner undertakes to appear before the respondent No.2, namely Punjab National Bank through the Branch Manager, Bihta Branch, Patna on 27.01.2022 at 10:30 a.m.

Shri Arvind Kumar, learned counsel for the respondent Bank, states that the Bank shall take a decision on the petitioner's request expeditiously and by passing a speaking order, copy whereof shall be supplied to the petitioner.

Liberty reserved to the petitioner to take recourse to such other remedies, as are otherwise available in law, should the need so arise subsequently.

Petition is disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS/-

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