

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2685 of 2022

Shakuntala Devi W/o Chandrika Sah, R/o Chakgaji, P.S.-Ahiyapur, District-Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. Allahabad Bank through its Managing Director, Head Office, 2, Netaji Subhash Road, Kolkata.
2. The Regional Manager, Regional Office, Allahabad Bank, Om Shanti Complex, 2nd Floor, Opposite Zila School, Muzaffarpur.
3. The Branch Manager, Allahabad Bank, Jawahar Lal Road Branch, Chhoti Saraiya Ganj, Muzaffarpur.
4. The Authorized Officer, Allahabad Bank, Jawahar Lal Road Branch, Chhoti Saraiya Ganj, Muzaffarpur.
5. Surendra Prasad Singh, S/o Rameshwar Prasad Singh, R/o Village-Sourkahiya, P.S.-Jaitpur, District-Muzaffarpur, Bihar.
6. The SHO/Officer In-charge of Ahiyapur Police Station.
7. Superintendent of Police, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Prakash Chandra, Advocate
For Respondent No. 1 to 4: Mr. Nishi Nath Ojha, Advocate
Mr. S.K. Sharma, Advocate
For Respondent Nos. 6& 7: Mr. Lalit Kishore, Advocate General

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-03-2022

Heard learned counsel for the parties.



The petitioner has moved this Court for the following relief(s):-

“1.That the petitioner beseeches indulgence of this Hon'ble Court by preferring this writ petition with a prayer for issuance of appropriate writ or writs in the nature of quashing of order and judgment dated 19.09.2020 passed by the learned DRT, Patna in S.A. No. 233/2018 holding the same is incorrect and unlawful further petitioner beseeches indulgence of this Hon'ble Court for the issuance of the writ/writs in the nature of certiorari for quashing of the sale notice dated 06.11.2018 as well as sale letter dated 27.12.2018 issued by the Bank with respect to mortgaged assets of petitioner and her son Rajesh Kumar and further the petitioner bleaches indulgence of the Hon'ble Court for the issuance of appropriate writs/ write in the nature of mandamus directing the concerned respondents that after cancellation of sale and settlement of their dues outstanding, returned the mortgage assets to the petitioner and further direct to the respondent bank to give details of balance outstanding dues payable by the petitioner after the loan account became NPA on 27.04.2017, when the NPA amount was Rs. 15,24,659/- only as on 27.04.2017, after adjusting the same with the insurance amount against their C.C. loan and allow the petitioner to make payment of balance of dues outstanding in easy installment and further direct to the respondent bank to settle the loan



account under OTS on NPA after adjusting the insurance amount against their C.C. loan and allow the petitioner to make payments of the rest loan amount in easy installments and further the petitioner bleaches indulgence of this Hon'ble Court for the issuance of appropriate writ in the nature of mandamus directing the concerned respondents not to disturb the peaceful possession of the petitioner.”

The instant petition was filed on 8th of February, 2022. At that time, the Debt Recovery Appellate Tribunal (hereinafter referred to as “DRAT”), constituted under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was not functional. Consequently, more so in view of the directions issued by the Hon’ble Apex Court, the petitioner preferred the instant petition challenging the order passed by the DRT in SA Case No. 233 of 2018, titled as **Rajesh Kumar & Anr. Vs. Allahabad Bank & Ors.** (Page No. 68).

Noticeably, assailing the very same order, petitioner preferred an appeal before the DRAT. But, however, since the said forum was not functional, the instant petition was filed.

It is alleged by the petitioner that despite having deposited a sum of Rs. 13,50,000/- (thirteen lacs fifty thousand)



before the Registrar of the DRAT, enabling the petitioner's appeal to be heard on merit, the appeal has yet not been listed for hearing. Also, despite the orders passed by the competent authority, the auction purchaser is trying to take over the physical possession of the property without following the due process.

Having given thoughtful consideration to the submissions made across the Bar, we are of the considered view that interest of justice would be best served if only the petitioner moves an application for preponement of the appeal pending before the DRAT.

In the given facts and circumstances, we request the said Tribunal to take up the matter and pass an appropriate orders, including granting interim protection, as would be prayed for by the petitioner.

Liberty reserved to the petitioner to move such application within next two working days.

Learned counsel for the respondent Bank states that in the event of any such application being preferred, the Bank would fully cooperate and assist the Tribunal in expeditious disposal of the application/appeal.

We are sure that the Bank would not precipitate the



action any further in the direction of taking over physical possession of the property in question.

The application stands disposed of.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Rajiv Roy, J)

Jagdish/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	02.04.2022
Transmission Date	

