

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2911 of 2022

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Arun Chaudhary, Son of Yadupatinath Choudhary, Resident of Village- Darhi,
P.O.- Bhadash, P.S.- Muffasil, District- Khagaria.

... .. Petitioner/s

Versus

1. The Authorized Officer, Indian Bank Khagaria Branch, Khagaria.
2. The Chief Branch Manager, Indian Bank Khagaria Branch, Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Om Prakash Singh, Advocate
For the Respondent/s : Mr. Binay Kumar Singh, Advocate

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

Date : 22-02-2022

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

- I. For issuance of writ or writs in the nature of certiorari for quashing/setting aside e-auction sale Notice dated 05.02.2022 whereby and whereunder the auction of the land in question has been fixed on 23.02.2022 in an arbitrary and illegal manner and in complete violation of the SARFAESI Act as well as Rule.
- II. Issuance of a writ in the nature of mandamus directing the respondents to stop the sale proceeding of the land of the



petitioner and not to proceed with the auction sale of the land in question till the final disposal of the writ petition or till the final outcome of the statutory appeal bearing S.A. No.50/2020 pending before the D.R.T. Patna.

- III. For issuance of direction to stay the process of sale notice dated 05.02.2022, which has also challenged on 11.02.2022 before the Debt Recovery Tribunal, Patna by filling the interlocutory application, but the chair of the Presiding Officer is vacant.
- IV. To pass such other relief/ reliefs to which petitioner is found entitled in the facts of the case.

We are entertaining the present petition in view of the fact that at this point in time, the Debt Recovery Tribunal is not functional on account of non-appointment of Presiding Officer.

Learned counsel for the petitioner states that on 18.02.2022, petitioner has already deposited a sum of Rs. 6,01,000/- with the respondent Bank, giving a proposal for One Time Settlement.

To show his *bona fides*, petitioner undertakes to deposit two lacs more on or before 28.02.2022.

Taking a holistic view, we dispose of the present



petition on the following mutually agreeable terms:-

(a) Petitioner shall positively deposit a sum of ₹2,00,000/- (two lacs) with the respondent Bank on or before 28.02.2022;

(b) Petitioner shall make himself available in the office of Respondent No. 2, namely The Chief Branch Manager, Indian Bank Khagaria Branch, Khagaria., on 28th of February, 2022 at 10:30 A.M. with a proposal, complete in all aspect, for-
(i) re-determining the amount due and payable by the petitioner to the Bank; (ii) seeking waiver of interest on the principal amount due and payable in terms of the policy of the Bank as also the guidelines issued by the Reserve Bank of India;

(c) The Bank shall take a decision on the petitioner's request within a period of eight weeks thereafter;

(d) Such decision has to be in accordance with law; the guidelines issued by the Reserve Bank of India and maintaining parity;

(e) Till the time proposal is pending with the authorities, no coercive action shall be taken against the petitioner.

(f) If the petitioner fails to deposit a sum of Rs. Two lacs, as undertaken by him, or repay the amount in



terms of the schedule fixed by the Bank on mutually agreeable terms, it shall be open for the Bank to take recourse to the remedies in accordance with law, including sale of mortgaged/hypothecated property.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	24.02.2022
Transmission Date	

