

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7554 of 2022

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Arun Kumar Verma, son of Chandradeep Prasad, Resident of 6, Gayatri Vihar, Vijay Park Extension, Dehradun, Dehradun 248001 and presently residing at Flat No. 102, Sudama Enclave, East Boring Canal Road, Chakaram Link Path, P.S. Budha Colony, Patna-800001.

... .. Petitioner/s

Versus

1. The Union of India Ministry of Financial Services, Government of India, North Block, New Delhi through Finance Secretary.
2. The Recovery Officer, Debt Recovery Tribunal, Patna, Karpuri Thakur Sadan, Ashiana Digha Road, Patna-800025.
3. The Bank of India, Sowon Branch, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate

For the Respondent/s : Dr. K.N.Singh, A.S.G.

For the Bank : Mr. Sanjay Singh Thakur, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-07-2022

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

- (i) For a writ of certiorari to quash the order dated 30.03.2022 and the consequential order dated 30.04.2022, passed in R.P. Case No. 323 of 2016 by the Recovery Officer, Debts Recovery Tribunal, Patna, whereby it has rejected the objection petition filed by the Petitioner – objector under Rule 11 of the Second Schedule of the Income Tax Act and directed for



proclamation of sale even without complying with the statutory requirement of notifying the date for settling of sale and providing individual notice to the borrower regarding fixation of the date of settling which renders the order impugned arbitrary and therefore requires interference by this Hon'ble Court.

(ii) For a declaration that the Recovery Officer has exceeded its jurisdiction vested in him as properties which are situated beyond the territorial jurisdiction over which the Tribunal exercised jurisdiction and thus in view of Sub Section 23 of Section 19 the Tribunal ought to have send the certificate for execution of certificate in respect of properties which where situated beyond the territorial jurisdiction of this Tribunal to the concerned D.R.T. where the property was situated and thus issuance of proclamation of sale in respect of three properties are illegal and wholly without jurisdiction.

(iii) For a direction to restrain the Respondents from proceeding with the sale scheduled to be held on 10.06.2022 as sale is a nullity as no notice was issued

/ served to the borrower regarding the date fixed for settling of proclamation of sale and the proclamation was settled on the ispe dixit of the Bank.

(iv) For any other relief / reliefs to which the petitioner is found entitled in the facts and circumstances of the case.

Learned counsel for the petitioner refers to and relies upon the judgments rendered by Hon'ble the Apex Court



in **2021 SCC Online SC 801; M/s Magadh Sugar and Energy Limited Vs. The State of Bihar & Ors.** and **(2007) 4 SCC 795; Mohit Bhargav Vs. Bharat Bhushan Bhargava & Ors.**, we are of the considered view that the petitioner has an equally efficacious remedy in law, for all issues, including the jurisdictional issue, can be raised before the appellate authority.

Petition stands disposed of.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	03.08.2022
Transmission Date	

