

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10419 of 2022

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M/s Shree Krishna Mill, Proprietor Mr. Munna Singh son of Late Vijaymal Singh, resident of Village- Beda, P.O.- Moresarai, P.S.- SasaramSasaram, District- Rohtas, Sasaram, Bihar, Pin Code- 821113

... .. Petitioner/s

Versus

1. The Chairman, Bank of Baroda Baroda Bhawan, 7th Floor RC Dutta Road, Varodara, Gujarat.
2. The Zonal Manager, Bank of Baroda Zonal Office, 5th Floor, Anand Vihar, West Boring Canal Road, Patna.
3. Regional Manager, Bank of Baroda, 1st Floor, Hotal Sarkar Parisar Dakbangala Chauraha, Frezer Road Patna.
4. The Authorized Officer-cum- Chief Manager, Bank of Baroda, Tanav Grast Aasti Vasili Branch, Bank of Baroda, Saryug Complex, near Patliputra Police Station, Patna- 800013
5. The Senior Branch Manager, Bank of Baroda, Main Branch Sasaram, Rohtas.
6. Mr. Vikas Kumar son of Shree Nathuni Prasad Singh, resident of Village- Bhagirath, P.O.- Khudru, P.S.- Dinara, District- Rohtas (Sasaram).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jay Prakash Singh, Advocate Mr. Saroj Kumar, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, Advocate Mr. Santosh Kumar Singh, Advocate Mr. Divyam Verma, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-11-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief (s):-

“(I) For issuance of writ in the nature of writ of certiorari for quashing of Sale Notice for Sale of Immovable Properties as Appendix-iv-A, dated 05.12.2020, to take possession of the premises



bearing Dead no. 11863,2704,4451,12758 Khata No. 43,147,147,447, Plot No. 936,938,938,939, Area 1.5,2.5,7.5,5.9, respectively; total area 20.5 decimal, which was processed on the basis of order passed by the District Magistrate, Rohtas, Sasaram which has been passed without noticing and providing opportunities of hearing behind back of the petitioner. At violation of Principal of natural justice and against the view of an order passed by Hon'ble Allahabad high court and has been affirmed by Hon'ble Supreme Court in similar circumstances, , vide case no. WRIT-C- 38578 of 2018(Kumkum Tentiwal versus the state of UP and 3 Others) dated -11.12.2018 which has been affirmed by Division Bench of Hon'ble Supreme Court vide Special Leave Appeal (C) no. 8191/2019 (Syndicate Bank versus Kumkum Tentiwal and others) dated - 06.05.2019.

(II) For issuance of writ in the nature of writ of mandamus directing the Respondents to accept the amount of auction of premises in one time and other rest dues loan amount of the bank which is still unpaid due to auction of mortgage property at very low price in hurry without giving opportunity of hearing and to the petitioner .this petitioner is ready to give undertaking to make the payment in suitable instalments as this Hon'ble Court may deem, fit, and proper. It is further stated that the petitioner is ready to abide by direction given by this Hon'ble Court in fixing the installment of rest



amount of Rs 39,32,100/ till 11.01.2022, as in similar circumstances Hon'ble Supreme Court has decided vide civil appeal no. 4679 of 2014, Arising out of Special Leave Petition (civil) no. 35168 of 2011 (Vasu P. Shetty versus M/s Hotel Vandana Palace and ors)

(III) For issuance of direction upon the respondents to return the auctioned premises at the payment of auctioned amount with other miscellaneous expenses done by auctioneer and Respondent Bank and if any dispute is raised from either side may be settled with the help of arbitration.

(IV) Also pray for any other relief(s) as Petitioner is found entitled in the fact and circumstances of the case.”

In our considered view, the issues raised by the present petitioner, be it of infraction of law, including directions issued by Hon'ble the Supreme Court in **Vasu P. Shetty Vs. M/s Hotel Vandana Palace & Ors., (2014) 5 SCC 660**, can be raised before the Debt Recovery Tribunal, Patna, where undisputedly, proceedings covering the very same subject matter, are pending.

O.A. No. 224 of 2020, titled as Bank of Baroda Vs. M/s Shree Krishna Mill & Ors. is pending and the petitioner has not joined the proceedings.

Under these circumstances, we direct the petitioner to



raise all these issues, subject matter of the present petition, in the O.A. (supra).

It is alleged that the petitioner’s property stands undersold, that too in violation of the conditions which are mandatory in nature.

In the attending circumstances, we request the Debt Recovery Tribunal, Patna to decide the application, including the claims which the petitioner may be setting up, expeditiously and preferably within a period of six months from the date of appearance along with a copy of this order.

Petitioner is also at liberty to initiate appropriate proceedings, in accordance with law.

The instant petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

