

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.392 of 2022

In
Civil Writ Jurisdiction Case No.3045 of 2019

Pratima Devi W/o Kamal Deo Prasad resident of Mohalla- Gandhi Nagar,
Ramna Road, P.O.- Motihari, P.S.- Motihari Town, Dist- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar at Patna.
2. The District Magistrate cum Collector, East Champaran at Motihari.
3. The Sub Divisional Officer, Sadar, East Champaran at Motihari.
4. The Circle Officer, Sadar, East Champaran at Motihari.
5. The Allahabad Bank, through its Branch Manager, Motihari, Dist- East Champaran.
6. Ramakant Chaudhary @ Ramakant Chaudhur, S/o Late Shreshtha Narayan Chaudhur, Resident of Mohalla- Sri Krishna Nagar, P.S.- Motihari Town, District- East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S.D. Sanjay, Sr. Advocate
For the Respondent/s	:	Mr. Md. Khurshid Alam (Aag12)
For the Respondent No. 6 :		Mr. Madhurendra Kumar, Advocate
For the Bank	:	Mr. Dayanand Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 01-11-2022

Heard Mr. S.D. Sanjay, learned Senior Advocate

for the appellant, Mr. Dayanand Singh, learned Advocate

for the respondent/Allahabad Bank and Mr. Madhurendra

Kumar for the auction-purchaser/respondent no. 6.



The appellant/loanee had filed an intervention application in CWJC No. 3045 of 2019, preferred by the auction-purchaser for a direction to the respondents to complete the auction-sale proceeding and give possession to him.

It appears from the records that the husband of the appellant had taken loan for setting up an industry, against which, only small amount was released in favour of the loanee. Precisely for this reason, the object and purpose of the loan got frustrated. The loan was found to have been turned bad and the property set up by the husband of the appellant was put to auction-sale.

The respondent no. 6 is the auction-purchaser.

The husband of the appellant had brought a proceeding against the aforesaid auction-sale before the DRT, Patna which disposed of the matter directing the husband of the appellant that if he paid an interest @ 9% and 0.5% penalty on auction amount payable by the auction-purchaser and shall clear the dues of the bank



along with an amount of Rs. 50,000/- towards legal cost, the husband of the appellant could retain the property.

This decision was challenged by the husband of the appellant before the BRT, Patna where such challenge was not accepted.

Against the aforesaid orders, the husband of the appellant preferred a writ petition vide CWJC No. 5726 of 2015 which has, according to Mr. Sanjay, learned Senior Advocate, yet not been decided.

In the meantime, as it appears from the records, the auction-purchaser came up before this Court in which an interim order was passed on 11.07.2022, rejecting the application preferred on behalf of the appellant for being permitted to intervene on the ground that the auction-sale had been made in the year 2008, the legality of which could not be raked-up in the aforesaid writ proceeding and directed for filing a counter affidavit on behalf of the necessary parties.



Today, we have been informed that the proceeding in the afore-noted writ petition has concluded and the prayer made on behalf of the auction-purchaser has been allowed.

Mr. Madhurendra Kumar, learned Advocate for the auction-purchaser has raised preliminary objection with respect to maintainability of this appeal on two grounds *viz.* that when a final order has been passed in the writ petition, the interim order merges in the final order which could be challenged, if so deemed necessary, by the appellant. The other ground of challenge is that once the sale in an auction proceeding is effected, the right of redemption extinguishes.

Be that as it may, considering the fact that a final order has been passed in the writ petition, we are not inclined to entertain the present appeal. It would be open for the appellant to agitate her cause before an appropriate proceeding in case it is deemed necessary.



Mr. Sanjay, learned Senior Advocate for the appellant however chooses to withdraw this appeal to agitate his cause before an appropriate forum.

The appeal stands disposed of as withdrawn with the liberty aforesaid.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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