IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3706 of 2021

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PUNYA NATH MISHRA Son of Uma Nand Mishra Resident of Harendra Sadan, Opp. Hanuman Mandir, Vachaspati Nagar, Sampatchak, Mahendru, P.O.- Mahendru, P.S.- Bhadurpur, District- Patna, Bihar-800006

... ... Petitioner/s

Versus

1. Allahabad Bank now Indian Bank through its Zonal Manager, Infront Kotwali Thana, Buddha Marg, patna
2. The Authorized Officer, Stressed Asset Management Branch, Allahabad Bank now Indian Bank, Kotwali Thana, Buddha Marg, patna
3. Chief Manager, Indian Bank, Boring Road Branch, Sahdeo Mahto Marg, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Avinash Shekhar, Advocate
For the Respondent/s	:	Mr.Rajan Ghoshrave, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

3 20-01-2022 The matter has been taken up for online hearing through video conference because of COVID-19 pandemic restrictions.

2. The admitted facts of the case are that pursuant to publication of an e-auction notice dated 18.09.2020 in the newspaper on 20th of September 2020 for the property pertaining to Khata No. 69, Survey Plot No. 119, Tauzi No. 131, Thana No. 26, situate at village Jaganpura, P.S. Phulwarisharif, admeasuring 4.59 decimals of land with building, which was

mortgaged with respondent-Bank, the petitioner had participated in the auction purchase and had deposited 10% of the reserve price (earnest money deposit), in terms of e-auction notice. He was declared highest successful bidder on 07.10.2020. After having been declared as successful bidder, the petitioner was required to deposit further 15% of reserve price by 08.10.2020. The petitioner, admittedly, did not deposit the said amount.

3. It is the petitioner's case that soon after being successful in the said auction the petitioner submitted an application on 08.10.2020 to the respondent-Bank requesting them to supply photo copy of the documents of the property in question. Admittedly, the documents relating to property were supplied, but, according to the petitioner, sanctioned map of the existing building was not supplied.

4. Be that as it may, as the petitioner failed to deposit 15 of the security deposit, e-auction of the said property failed because of non-adherence to Rule 9(3) of the Security Interest (Enforcement) Rules, 2002, as per the respondent-Bank.

5. It is the case of the respondent-Bank that subsequently another notice was issued for sale of the same mortgaged property through e-auction held on 15.09.2021. This time, a new auction purchaser was declared successful and as

per e-auction notice, the Bank has already received 25% of the reserve price of the said property.

6. The petitioner has filed I.A. No. 1 of 2021 on 18.02.2021 seeking amendment in the writ petition by directing the Bank not to conduct any fresh auction in respect of the said property.

7. Further I.A. No. 2 of 2021 has been filed by the petitioner seeking quashing of the Advertisement dated 25.08.2021 for fresh auction of the property in question.

8. Learned counsel for the petitioner has submitted that the Bank was under obligation to supply to the petitioner, the sanctioned map of the building in question or inform the petitioner whether such sanctioned map was available or not. He submits that the petitioner did not deposit rest of the security money of 15% because he was not aware whether map of the building was duly sanctioned by the Patna Municipal Corporation or not. He has submitted that as the Bank failed to supply the sanctioned map, the petitioner was right in not depositing the rest of the 15% of the security deposit. He has submitted that in, any view of the matter, the Bank cannot retain the advance amount of Rs. 10,35,504/-(10%), which the petitioner had deposited at the time of his participation in the

auction process.

9. In reply, learned counsel for the respondent-Bank has submitted that it was specifically mentioned in the e-auction notice that the property in question was being offered “as is where is and as is what is” basis. The petitioner, after having participated in the process of auction was under obligation to deposit 15% of the security deposit on the next day, which he admittedly failed. Accordingly the Bank has rightly forfeited the security deposit made by the petitioner.

10. We put a specific query to learned counsel for the petitioner as to what steps the petitioner had taken from the date of e-auction notice till the date of his participation in the auction process to enquire as to whether the building map was duly sanctioned or not, we have not received any satisfactory reply. Immediately, on the date when petitioner was required to deposit 15% of the security amount, the petitioner raised a question as to whether the building map was duly sanctioned or not.

11. In our opinion, this writ application lacks bonafide. We do not find any illegality in the action of the Bank proceeding to go for fresh auction after the petitioner refused to pay rest of the 15% of the security deposit on the requisite date.

12. This writ application is accordingly dismissed.

13. Both the interlocutory applications also stand dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

Rajesh/-

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