

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19661 of 2021

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M/s Buddha Enterprises through its Proprietor Kamlesh Kumar, age about -40 Years, Gender - Male, Son of Buddh Nath Singh, Resident of Lalganj, P.O. - Sasaram, P.S. - Sasaram, District - Rohtas.

... .. Petitioner/s

Versus

1. The Bank of Baroda through its General Manager, Zonal Office, 5th Floor, Anand Vihar, West Boring Canal Road, Patna - 800001.
2. The General Manager, Bank of Baroda, Zonal Office, 5th Floor, Anand Vihar, West Boring Canal Road, Patna - 800001.
3. The Regional Manager, Regional Office, Bank of Baroda, Zonal Office, 3rd Floor, Anand Vihar, West Boring Road, Patna - 800001.
4. The Authorized Officer / Chief Manager, Bank of Baroda, Sasaram Branch, Hasnu Market, Old G.T. Road, Sasaram, District - Rohtas, Pin Code - 821115.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Om Prakash Singh, Advocate Mr. Rajeev Ranjan, Advocate Mr. Amit Kumar, Advocate Mr. Apul, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, Advocate Mr. Santosh 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)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

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Date : 14-02-2022

Heard learned counsel for the parties.

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



- I. Issuance of Writ or Writ in the nature of Certiorari quashing / setting aside the E-Auction Sale Notice dt. 11.10.2021 (Annexure – 4) whereby and whereunder date of Auction of the Land and Residential Building has been fixed on 16.10.2021 in an arbitrary and illegal manner and in complete violation of the Act as well as the rule.
- II. Issuance of Writ in the nature of Mandamus directing the Respondents to stop the Sale proceeding of the Land and Residential Building of the Petitioner and not to proceed with the Auction Sale of the Land and Residential Building of the Petitioner till the final disposal of the Writ Petition or till the final outcome of the Statutory Appeal filed before the learned DRT, Patna vide S.A. No. – 186 of 2021.
- III. For issuance of direction to stay the process of the Sale Notice under Rule 5 (2) and 8 (6) of the SARFAESI Rule vide his letter dt. 11.10.2021 (Annexure – 4) issued by Respondent No. – 4 by which the date of Auction Sale has been fixed on 16.11.2021 till the final adjudication of the present Writ Petition or till the final outcome of the Statutory Appeal filed before the learned DRT, Patna vide S.A. No. – 186 of 2021 as the learned Forum are vacant.
- IV. Issuance of Writ in the nature of Mandamus directing the Respondents not to confirm the Auction Sale even if it is done on 16.11.2021 till the final outcome of the Writ Petition.
- V. Issuance of such other order/ orders, direction/ directions, relief/reliefs to which the petitioner may found entitled to be passed as your Lordships may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

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 in the month of January, 2022 petitioner has already deposited a sum of Rs. 17 lacs to the respondent Bank.

If that were so, we are convinced of the petitioner's *bona fides* of having the matter amicably resolved and repaying the admitted amount in accordance with law, subject to the



proposal being submitted and decision taken thereupon by the respondent Bank for waiver of interest and/or repayment of the outstanding amount in equal monthly instalments spread over a period of six months.

Statement accepted and taken on record.

Respondent Bank of Baroda has no objection.

As such, we dispose of the present petition on the following mutually agreeable terms:-

(a) Petitioner shall make himself available in the office of Respondent No. 2, namely the General Manager, Bank of Baroda, Zonal Office, 5th Floor, Anand Vihar West Boring Canal Road, Patna- 800001 on 21st 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) the period within which the remaining amount shall be deposited by the petitioner to the Bank; (iii) seeking waiver of interest as per the policy of the Bank as also in terms of guidelines issued by the Reserve Bank of India;

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



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

(d) Till such time the decision is taken, no coercive steps be taken against the petitioner, including putting the property in question on sale.

(e) If the petitioner fails to 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)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	17.02.2022
Transmission Date	

