

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19762 of 2021

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Rakesh Ranjan son of Mr. Dinesh Prasad Singh resident of Rahmatpur Pakeri,
P.O. Bahapur, P.S. Karai Parsurai, District Nalanda.

... .. Petitioner/s

Versus

1. The Authorized Officer, Indian Bank Assests Recovery Management Budh Marg, P.S. Kotwali, Patna
2. Indian Bank through the Branch Manager, Hilsa Branch, Shaha Market, Hilsa, P.S. Hilsa, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amaresh Kumar Sinha, Advocate
For the Respondent/s : Mr. Dr. Binay 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 : 02-02-2022

Heard learned counsel for the parties.

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

- i) For the issuance of a writ in the nature of writ of certiorari or any other appropriate writ or order or direction, quashing the sale notice dated 03.11.2021, sent through post to the petitioner on 17.11.2021 and served on the petitioner on 20.11.2021, whereby the date of e - auction has been fixed on 25.11.2021.



- ii) For holding and declaring that in the circumstance of the post of the Presiding Officer in the Debts Recovery Tribunal, Patna being vacant, the petitioner cannot be left without a legal remedy.
- iii) For further holding and declaring that the right to take recourse to a legal or statutory remedy is the constitutional right of the petitioner, which could not be exercised
- iv) For any other relief to which the Petitioner may be found entitled.

It is brought to our notice that as per the notice to intended sale dated 03.11.2021 (Annexure-P/2 Page No. 17), as on 14th of February, 2019, petitioner borrowed a sum of ₹20,53,899/-.

Learned counsel for the petitioner states that petitioner has already deposited a sum of ₹1,70,000/- and is ready and willing to deposit the rest amount with the respondent Bank. To show his bona fides, petitioner is ready and willing to deposit a sum of ₹5,00,000/- within next one week, subject to the Bank agreeing to waive off the interest in terms of its policy and the R.B.I. guidelines. The remaining amount would be repaid in equal instalments payable spread over a period of certain duration.

It is further prayed that till such time the settlement



takes place, notice of intended sale dated 03.11.2021 (AnnexureP/2 Page No. 17) shall remain stayed.

Dr. Binay Kumar Singh, learned counsel appearing on behalf of the Bank, under instructions, states that the Bank is ready and willing to process the petitioner's request in accordance with law. Also, it will be done expeditiously and without any discrimination. Benefit accrued to similarly situated persons would also be accrued to the petitioner.

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.

The present petition is, thus, disposed of in the following mutually agreeable terms:-

(a) Petitioner shall deposit a sum of ₹5,00,000/- within one week from today;

(b) The said amount shall be deposited directly with the Bank;

(c) Petitioner shall, within one week from today, approach the respondent Bank with a concrete proposal conveying his intent of repaying the amount and also seeking waiver of the amount of interest in terms of the R.B.I.



guidelines;

(d) Petitioner undertakes to repay the amount on such terms as would be mutually acceptable to both the parties;

(e) In the event of default, it shall be open for the Bank to take recourse to such remedies as are available in accordance with law;

(f) Till such time the decision is taken, sale notice dated 03.11.2021 (AnnexureP/2 Page No. 17) shall remain stayed and the property in question shall not be put to sale;

(g) Liberty reserved to the parties to take appropriate action in accordance with law, should the need so arise subsequently, including filing a fresh petition before this Court;

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	03.02.2022
Transmission Date	

