

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20899 of 2021

1. Arun Kumar Son of Sri Ramroop Prasad @ Sri Ramrup Prasad Resident of Road No.14, House No. 58, Krishna Nagar, P.O.-Budha Colony, District-Patna.
2. Sibnderlla Himanshu, Wife of Arun Kumar Resident of Road No.14, House No. 58, Krishna Nagar, P.O.-Budha Colony, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Patna.
2. The Additional Collector, Patna.
3. The Sub-Divisional Officer, Patna Sadar, Patna.
4. The Circle Officer, Patna.
5. The Zonal Manager, Punjab National Bank, Zone-Patna, Bihar.
6. The Regional Manager, Punjab National Bank, Regional Office, Patna.
7. The Chief Manager-Cum-Authorized Officer, Punjab National Bank, Secured Creditor, Branch Office, Kurji, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rakesh Kumar Shrivastava, Advocate
For the Respondent/s	:	Mr.Ajay Kr. Rastogi, AAG-10
		Ms. Smriti Singh, Advocate
For PNB	:	Mr. Kumar Priya Ranjan, Standing Counsel
		Mr. Pallav, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-02-2022

Petitioner has prayed for the following relief(s):

“(i) For setting aside the entire proceeding under SARFAESI Act measures initiated u/s 13(2) of the SARFAESI Act, 2002, followed by measures under 13(4) of the Acts, with respect to Land &



Building situated at Mohalla – Sri Krishna Nagar Housing Colony, Thana – Budha Colony, Sub, Sadar & District – Patna, Ward No. 4 (Old) 15(New), Circle No. 245, LIG Plot No. 58, Volume No. 101, Page No. 1 to 7, Area – 221052 ft. covered by Sale Deed No. 11353 dated 04.06.2017 pertaining to Smt. Sindrella Himanshu, Wife of Arun Kumar -

Bounded by

North – LIG House No. LH/59

South – LIG House No. LH/57

East – 20 feet branch road

West – Open space & LIG House No. LH/41.

(ii) For direction to respondents to do not take possession of the Land & Building described above.

(iii) For grant of other relief or reliefs upon which the petitioner is entitled to get relief on the basis of facts as well as law both.

It is stated that the Debt Recovery Tribunal, Patna is not functional for want of appointment of its Presiding Officer. It is under this circumstance that we are entertaining this petition.

Shri Kumar Priya Ranjan, learned counsel for the Bank, states that the property stands auction-sold, but possession not handed over.

It is not in dispute that the petitioner has paid the



entire outstanding amount of Rs. 52,32,000/-. Thus, the only issue left is as to how best the charges for conducting the auction are to be settled by the Bank.

For such purpose, as mutually agreed, we direct the petitioner to approach Respondent No.7, namely The Chief Manager-cum-Authorized Officer, Punjab National Bank, Secured Creditor, Branch Office, Kurji, Patna, within two weeks by filing a proper application. The bank shall take a decision on the issue, more so in view of the circumstances narrated by the petitioner in the writ petition prompting delay in repayment.

We are hopeful that the bank shall recompense the auction-purchaser, but the property shall be handed over to the petitioner, more so, in view of the fact that this is the only residential house of the petitioner.

Needless to add, the amount payable for undertaking the process of auction shall be paid by the petitioner. It has also come on record that petitioner and his entire family has been suffering from Covid-19.

Needless to add, while considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

If aggrieved by the said order, the petitioner shall



have liberty to approach this Court by way of separate petition(s), if so required and desired.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

Petition is disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-DKS

AFR/NAFR	
CAV DATE	
Uploading Date	03.03.2022
Transmission Date	

