

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16656 of 2022

=====

Kameshwar Prasad @ Kameshwar Prasad Singh son of Late Suraj Singh,
Resident of Mohalla-Masumganj, P.S.-Bhagwan Bazar, District-Saran.

... .. Petitioner/s

Versus

1. The Debt Recovery Tribunal through its Registrar, Karpuri Sadan, 2nd Floor, Near Rajeev Nagar Police Station, Ashiana Digha Road, Patna-800025.
2. The Recovery Officer-II, Karpuri Sadan, 2nd Floor, Near Rajeev Nagar Police Station, Ashiana Digha Road, Patna-800025.
3. UCO Bank through its Zonal Manager, Zonal Office, Mauryalok Complex, Dakbunglow Road, Patna-800001.
4. The Chief Manager, UCO Bank, Zonal Office, Mauryalok Complex, Dakbunglow Road, Patna-800001.
5. The Senior Manager, UCO Bank, Chhapra Branch, Town Chhapra, District-Saran at Chhapra.
6. M/S Mangalam Automobiles, N.H.-19, Bypass Road, Near Pani Tanki, Shakti Nagar, Chhapra, Saran, through its Proprietor Rajendra Prasad Singh, son of Late Shiv Pujan Singh, resident of Chandmari Road, Chhapra, P.S.-Chhapra Muffasil, District-Saran.
7. Smt. Shashi Kumari, Wife of Ramnandan Singh, resident of Mohalla-Masumganj, P.S.-Bhagwan Bazar, District-Saran.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Prakash Chandra Jha, Advocate Mr. Binod Kumar Mishra, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG Mr. Ranjeet Kumar Pandey, Advocate Mrs. Punam Kumari Singh, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

=====

(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.)

=====

Date : 02-12-2022

Heard learned counsel for the parties.



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

“(i) To issue a writ in the nature of Certiorari to quash the order dated 19.08.2022 passed in Appeal No. 5 of 2018 (Annexure-14) passed by the learned Presiding Officer (In short-P.O.) Debt Recovery Tribunal, Patna (In short D.R.T., Patna) whereby and whereunder the order dated 05.08.2017 passed in R.P. Case No. 553 of 2016 passed by the learned Recovery officer-II, (In short R.O.), D.R.T., Patna has been set aside; And further sale conducted in pursuance of same order of R.O.-II, D.R.T., Patna has also been set aside with a direction to pass a fresh order for settlement of the terms of sale without disclosing about the terms of paying back the purchasing huge amount with interest and compensation rendered and suffered by the purchaser (the petitioner hereof).

As also to issue a writ in the nature of mandamus directing the R.O.-II, D.R.T., Patna to hand over the physical possession of the purchased immovable property to the petitioner forthwith for the ends of justice.

(ii) To hold and declare that the observation and expression of finding of the learned P.O. narrated in Paragraph-18 to 26 of the impugned order is based on without consideration of substantial facts and question of law involved therein and as also based on misconceived and misleading pleading which is at all erroneous under the principle of



legitimate expectation.

(iii) To issue a writ in the nature of mandamus directing the respondents (R.O.-II, D.R.T., Patna and Bank) to substantiate and make final execution of the order dated 05.08.2017 by which mortgaged property has been sold in favour of petitioner through the E-Auction conducted through Independent Agency in accordance with law.

(iv) To hold and declare that the present application is well maintainable and appears in the teeth of constitutional parameter for the property reason that right of property is bestowing to the petitioner U/A 300-A who is neither Loanee or Guarantor rather he is a bonafide purchaser under aegis of the order of R.O.-II, D.R.T., Patna.

(v) To hold and declare that it is illegal to set aside the conduct of sale after five years of sale; After issuance of memo of confirmation of sale certificate and completion of mutation process by the competent authority in favour of purchaser (the petitioner).

(vi) To grant any other relief to the petitioner for which he is entitled to have.”

Undisputedly, the petitioner has an equally alternative and efficacious remedy by way of an appeal.

As such, the present petition is permitted to be withdrawn.



As and when any such appeal is preferred, the same shall be considered and decided expeditiously, in accordance with law, preferably within a period of three months thereafter, of course after complying with the principles of natural justice as also affording sufficient opportunity to place on record relevant materials.

Needless to add, the issue of limitation shall not come in the way of the Appellate Authority in deciding the appeal on merits, in view of the fact that petitioner has been pursuing remedies before different foras.

The instant petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	06.12.2022
Transmission Date	

