

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20423 of 2018

1. Ganga Memorial and Educational Society Through Its Secretary, Manoj Kumar @ Manoj and Ors S/o Sri Naresh Prasad Sinha, Resident of NH- 31, Kharura, P.O. P.S.- Harnaut, District- Nalanda.
2. Manoj Kumar @ Manoj, Son of Sri Naresh Prasad Sinha, Resident of Flat No. 407, Maharaja Kameshwar Complex, Fraser Road, Patna.
3. Smt. Nibha Sinha @ Nibha, Daughter of Sri Manoj Kumar @ Manoj, Resident of Flat No. 407, Maharaja Kameshwar Complex, Fraser Road, Patna.
4. Smt. Damyanti Devi, Wife of Shri Umeshwar Prasad Singh, Resident of Village- Chamarichak, P.O.- Jamsaut, P.S.- Shahpur, District- Patna.
5. Sri Dilip Kumar Singh, Son of Shri Umeshwar Prasad Singh, Resident of Village- Chamarichak, P.O.- Jamsaut, P.S.- Shahpur, District- Patna.

... .. Petitioner/s

Versus

1. The Central Bank Of India, Through Its Chief Manager and Ors
2. Authorized Officer, Central Bank of India, Regional Office, Patna Maurya Lok Complex, Patna- 800001
3. M/s Govinda Construction through its Director Mr. Rajeev Kumar S/o Sri Krishnandan Sharma, Tarang Press Road, Near Saibaba Mandir, Shivpuri, LBS Nagar, Patna.
4. M/s Keshav Hospital Pvt. Ltd. through Managing Director, Dr. Kumud Kamini, wife of Dr. Ashok Kumar, resident of B/9 Finance Colony, Khajpura, Ward No. 02, Rukanpura, Patna.
5. Smt. Sulekha Kumari, daughter of Shri Aditya Kumar, resident of New Jaganpura, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Arbind Kumar Jha, Advocate
For the Respondent/s : Mr.Ajay Kumar Sinha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(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.)

4 11-11-2022

Petitioners have prayed for the following relief(s):

“That the present writ petition is being filed for quashing the order dt. 25.09.2018 passed by Ld. Presiding Officer, Debt Recovery Tribunal in pending SA 152 of 2018 (M/s Ganga Memorial Educational Society & Ors. Vs. Authorized Officer, Central Bank of India) passed in violation of sub-rule 5 of rule 9 of the Security Interest (Enforcement) Rules, 2002 affirming the action of the Secured Creditor bank, put the property on action sale without forfeiting the deposit made by respondent no.3.

That petitioner further seeks declaration that since respondent no. 4 failed to comply sub-rule 4 of rule 9 i.e. pay balance amount on or before the 15th day i.e. by 22.09.2018 direction of the Tribunal dt. 25.09.2018 to implead respondent no. 4 and 5 as auction purchaser is without jurisdiction and respondent no. 4 and 5 can not be impleaded as auction purchaser unless they comply sub-rule 4 of rule 9 or otherwise the deposit has to be forfeited .

That petitioner further seeks declaration that unless certificate of sale of immovable property in favour of proposed purchaser is issued and actual possession of the property is delivered no right is being created



in favour of respondent no. 4 and 5 under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as SARFAESI Act, 2002).

That further petitioner prays for declaration that finding of Tribunal that auction purchaser is paying interest Rs.30,000/- per day is based on no evidence and hence error of law and further statute is not transferring such interest liabilities of auction purchaser or borrower hence, the direction to pay the same is without jurisdiction.

The petitioner further prays for issuance of any other writ/writs order/orders and direction/directions for which petitioner may be found entitled.”

Learned counsel for the petitioner states that prayer No.1 has become infructuous.

Learned counsel for the petitioner seeks permission to withdraw the present petition, reserving liberty to take recourse to the remedies provided in law for implementation of the order dated 21st of September, 2016, passed by the Presiding Officer, Debts Recovery Tribunal, Patna in S.A. 59 of 2016, titled as Ganga Memorial & Education Society & Ors. Vs. Authorized Officer, Canara Bank & Anr..(Annexure-3, page-24).



Petition is disposed of as withdrawn with the liberty aforesaid.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

K.C.Jha/DKS

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