

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8525 of 2018

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Smt. Durga Devi wife of Jitendra Kumar Gupta, resident of Village and P.O.-
Katra Kala, P.S.- Mohania, District- Kaimur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Punjab National Bank through its Zonal Manager, Zonal Office at Patna.
3. The Punjab National Bank having its Office at Branch Officer, Gorsara, District- Ramgarh Kaimur.
4. The Branch Manager, The Punjab National Bank having office at Branch Gorsara, District- Ramgarh Kai
5. The Chief Manager cum Authorized Officer, The Punjab National Bank having office at Branch Office

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anil Kr. Singh- Gp26

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

Date : 23-01-2023

The petitioner has prayed for the following relief(s):-

“I. For the issuance of the appropriate writ, order(s) or direction(s) in the nature of Certiorari to quash the Possession Notice dated 14.02.2018 issued by the Authorized Officer, Punjab National Bank on the ground that the same is bad in the eye of law as it is been issued without the proper appreciation of the grievances as raised by the petitioner under section 13(3-A) of the SARFAESI Act, 2002.

II. For the issuance of the appropriate writ, order(s) or direction(s) in the nature of Certiorari to quash the ad-



vertisement published in the local daily namely Prabhat Khabar dated 16.03.2018 in respect to the mortgaged property of the petitioner described as "Land and Building situated at Mauza- Lakhanpatti, Thana No.- 407, Khata No. Chak-42/survey- 36, 37, Plot no.- 214/418, 419, 272, 275- Chak /Survey, Area-10.0 decimal", which had been advertised at Sl. No.-3 of the instant advertisement for E-auction and the date of E-auction had been fixed on 18.04.2018 at 12:00 to 12:30 PM; on the ground that the mandatory statutory requirements of the provisions of the SARFAESI Act, 2002 and the subsequent Security Interest Enforcement Rules, 2002 had not been with.

III. For the issuance of the appropriate writ, order(s) or direction(s) in the nature of Mandamus to direct the respondent authority to not to proceed with the instant E-auction dated 18.04.2018 at 12:00 to 12:30 PM on the ground that the subsidy amount is to be adjusted with the instant loan amount.

IV. For the issuance of the appropriate writ, order(s) or direction(s) in the nature of the Mandamus to direct the respondent authority to not proceed with the E-auction dated 18.04.2018 at 12:00 to 12:30 PM. with respect to the Scheduled property as mortgaged by the petitioner on the ground that the respondent authority had not appreciated the fact that the instant loan had been availed by the petitioner on the basis of the scheme of the Government of India vide Gramin Yojna Scheme and the subsidy amount had not been paid to the petitioner in compliance of the stated scheme.

V. And for the issuance of any other relief(s) for which the petitioner is entitled to in the facts and circum-



stances of the present case.”

In our considered view, the issues raised by the present petitioner, be it of infraction of law, including directions issued by Hon’ble the Supreme Court in **Vasu P. Shetty Vs. M/s Hotel Vandana Palace & Ors., (2014) 5 SCC 660**, can be raised before the Debt Recovery Tribunal, Patna, where undisputedly, proceedings covering the very same subject matter, are pending.

O.A. No. 224 of 2020, titled as Bank of Baroda Vs. M/s Shree Krishna Mill & Ors. is pending and the petitioner has not joined the proceedings.

Under these circumstances, we direct the petitioner to raise all these issues, subject matter of the present petition, in the O.A. (supra).

It is alleged that the petitioner’s property stands undersold, that too in violation of the conditions which are mandatory in nature.

In the attending circumstances, we request the Debt Recovery Tribunal, Patna to decide the application, including the claims which the petitioner may be setting up, expeditiously and preferably within a period of six months from the date of appearance along with a copy of this order.



Petitioner is also at liberty to initiate appropriate proceedings, in accordance with law.

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)

Bibhash/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	25.1.2023
Transmission Date	

