

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6352 of 2023

Ashok Roy, Male, aged about 62 years, Son of Mathura Roy Resident of Amar Bigha. Near Devi Sthan, P.O. and P.O. -Gaya, District-Gaya, Pin Code-823004

... .. Petitioner/s

Versus

1. Bank of Baroda through its Chairman, Corporate Centre, Plot No. C-26, Block-G, Bandra Kurla Complex, Bandra (East), Mumbai, Pin Code-400051
2. Regional Manager, Bank of Baroda, 5th Floor, Anand Vihar, West Boring Canal Road, Patna Pin Code-800001
3. Branch Manager, Bank of Baroda, Rathore Bhawan, Swarajpuri Road, Maroofganj, Gaya, Pin Code-823001

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Advocate
For the Respondent/s : Mr. Vivek Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 15-05-2023

Heard learned counsels for the respective parties.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“(i) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing the letter dated 26/04/2022 issued by the Chief Manager, Bank of Baroda, Patna (hereinafter referred to as "the Bank"), which had been communicated to the petitioner by a letter dated 23/09/2022 issued by the concerned authorities under the Bank, by which the representation submitted by the petitioner with a request for refund of the earnest money deposit made by him for the purposes of participating in the process of tender pursuant to e-auction conducted by the Bank in relation to the immovable properties situated at Mauja Bodhgaya, Tola Baiju Bigha, P.S.-Bodhgaya, P.S. No. 359, Tauji-Samilat Anchal Bodhgaya, Distt-Gaya, Khata No. 778 (N)/246 (0), Plot No.- 118 (N)/82



(0), Sale Deed No. 11005 in the name of Akhauri Nishant, S/o Akhauri Gopal has been rejected on patently misconceived and untenable grounds;

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities in the Bank to take steps towards returning the amount of Rs.19,31,300/- to the petitioner that has been deposited by him towards EMD and 25% of the bidding amount pursuant to e-auction conducted by the Bank in relation to the immovable property situated at Mauja Bodhgaya, Tola Baiju Bigha, P.S.-Bodhgaya, P.S. No. 359, Tauji-Samilat Anchal Bodhgaya, Distt-Gaya, Khata No. 778 (N)/246 (0), Plot No.- 118 (N)/82 (0), Sale Deed No. 11005 in the name of Akhauri Nishant, S/o Akhauri Gopal;

(iii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Bank to take steps towards making payment of penal interest over and above the amount of money as may be found to be liable to be returned to the petitioner;

(iv) Issuance of a declaration holding that the petitioner is entitled for return of the amount of Rs. 19,31,000/- deposited by him in furtherance of e-auction in relation to the aforesaid piece of land as the land, in question does not exist and furthermore, the petitioner is also entitled for award of exemplary damages in addition to the penal interest in accordance with law.

(v) Any other relief that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

3. Perusal of the records, it is evident that the matter is relating to certain disputed issues, therefore, writ is not maintainable in the light of Apex Court decisions in the case of ***Subhash Jain vs. Rajeshwari Suman and Ors.*** reported in **2021 SCC Online 562** read with ***Union of India and Ors. vs. Puna Hinda*** reported in **(2021) 10 SCC 690**



4. Learned counsel for the respondents submitted that the petitioner has remedy before the D.R.T. under *The Securitisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002* (in short ‘SARFAESI Act’). In view of these facts and circumstances, present writ petition stands disposed of reserving liberty to the petitioner to invoke appropriate remedy.

5. In the event of filing litigation, the jurisdictional authority is hereby directed to examine delay issue in the light of Section 14 of the *Limitation Act, 1963* or any other special provisions.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2023
Transmission Date	NA

