

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.482 of 2024

In
Civil Writ Jurisdiction Case No.6575 of 2023

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M/S Jai Hanuman Aggrotech Private Ltd. a company registered under the Companies Act having its regional office Village Madhaipur, via Vidyapatinagar, P.S.- Daisingsarai, District- Samastipur-848503 through one of the director Sri Ajit Kumar @ Ajeet Kumar.

... .. Appellant/s

Versus

1. Canara Bank through its Authorized Officer Krishna Kumar (male), aged about 39 years, son of Harihar Prasad, Regional office II, Maurya Tower 2nd Floor, Maurya Lok Complex, Patna, Bihar-800001.
2. The State of Bihar, through its Chief Secretary, Old Secretariat, Patna.
3. The District Magistrate, Samastipur.
4. The Superintendent of Police, Samastipur.
5. The Officer-In-Charge, Dalsingsarai, Police Station.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Krishna Kant Singh, Advocate
For the Respondent/s : Mr.Rajan Ghoshrahe, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-05-2024

The appellant is concerned with the judgment of the learned Single Judge, which directed the District Magistrate, Samastipur to consider the application made by the writ petitioner-Bank to assist handing over physical possession of a property to the purchaser, as purchased in a proceeding before the Debt Recovery Tribunal (DRT). The 5th Respondent's henchmen were said to be obstructing such handing over of



possession, consistently, despite the sale deed having been executed under a valid proceeding before the Debt Recovery Tribunal (DRT) and there was no stay obtained from the Debt Recovery Appellate Tribunal (DRAT).

2. The learned Counsel for the appellant submitted that before the DRAT, there were interim applications filed for stay, early hearing and waiver of pre-deposit. The waiver application was allowed but the Bank approached the DRAT with a prayer to recall that order. This has created considerable delay; which is an attempt by the Bank to frustrate the appellate proceeding. It is also pointed out that Annexure-A produced along with the appeal, a judgment of a learned Single Judge clearly indicates that the Bank had colluded with the purchaser to file a writ petition to get hand over the property, while the matter was pending before the Appellate Authority. The learned Single Judge, after making such an observation, had dismissed the writ petition with cost imposed on the purchaser. The Bank had suppressed the said fact and not disclosed it in the present proceedings. It is prayed that hand over of the property may be stayed till the Appellate Authority concludes the proceedings.

3. The Hon'ble Supreme Court time and again has cautioned the High Courts from invoking the remedy under



Article 226 to interfere with the proceedings validly initiated by a financial institution before the DRT. In the present case, impugned judgment of the learned Single Judge clearly details the various attempts taken by the Bank to hand over the property to the auction purchaser; which were frustrated by reason of the obstruction of Respondent No. 5 through his henchmen. The appeal before the DRAT, Allahabad is numbered as Appeal No. 1224 of 2022 and has been pending for the last two years without any interim order of stay of the sale effected.

4. Obviously, the attempt of the appellant is to frustrate the valid claim of hand over of properties, to the auction purchaser; by taking law into his own hands; which cannot be permitted. It is only in that circumstance that the Bank approached this Court under Article 226 seeking a mandamus to the District Magistrate, which has been issued. We find absolutely no reason to entertain the appeal and we find that the appellant having already approached the DRAT, cannot seek for a stay of the proceedings for handing over, especially in an appeal filed against the order in the writ petition initiated by the Bank. The order of stay, has to be obtained from DRAT.

5. We cannot also countenance the contention raised of suppression of material facts. The purchaser had approached



this Court with CWJC No. 4524 of 2023 in which Annexure-P/1 order was passed. There is an observation in the said order that the proceedings appear to be collusive with the Bank; which we feel was unwarranted, especially since we do not see any appearance for the Bank in the said order. The ground of suppression hence also fall by the way-side.

6. We are not inclined to entertain the appeal and dismiss the same *in limine*.

7. Interlocutory applications, if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Sujit/-

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