

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1110 of 2019

In
Civil Writ Jurisdiction Case No.17764 of 2016

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Smt. Vishnu Devi, W/o Mr. Deo Krishan Pd. Yadav, R/o New Ganga Nagar,
P.S.- Kewati, Distt- Darbhanga.

... .. Appellant/s

Versus

1. UCO Bank, Zonal Office through Branch Manager, Maurya Lok Complex,
4th Floor, Block-A, New Dak Bunglow Road, Patna- 800001.
2. The Union of India through Recovery Officer-I, Debt Recovery Tribunal,
Patna.
3. Smt. Banita Jha W/o Ganga Prasad Jha, R/o 28, Lahta Tumaul Suhat,
Anchal- Allnagar, District- Darbhanga- 847423.
4. Ganga Prasad Jha, S/o Buchai Jha, R/o- 28, Lahta, Tumaul Suhat, Anchal-
Allnagar, District- Darbhanga- 847423.

... .. Respondent/s

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with
Letters Patent Appeal No. 1141 of 2019
In
Civil Writ Jurisdiction Case No.4506 of 2017

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Smt. Vishnu Devi, W/o Mr. Deo Krishan Pd. Yadav, R/o New Ganga Nagar,
P.S. Kewati, Distt. Darbhanga.

... .. Appellant/s

Versus

1. State of Bihar, through Secretary Department of Personnel and
Administration, Govt. of Bihar, Patna.
2. State of Bihar through District Magistrate, Darbhanga, Distt. Darbhanga,
Bihar.
3. UCO Bank, through Deputy Zonal Head, Zonal Office, Mauryalok
Complex, 4th Floor, Block- A, New Dak Bunglow Road, Patna.
4. Smt. Banita Jha, W/o Ganga Prasad Jha, Resident of Village- Tarnaul,
Alinagar, District- Darbhanga.

... .. Respondent/s

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Appearance :

(In Letters Patent Appeal No. 1110 of 2019)

For the Appellant/s : Mr. Arbind Kumar Jha, Advocate
For the UCO Bank : Mr. Ranjeet Kumar Pandey, Advocate

(In Letters Patent Appeal No. 1141 of 2019)

For the Appellant/s : Mr. Arbind Kumar Jha, Advocate
For the State : Mr. Suraj Kumar Sharma, AC to AAG-3
For the Bank : Mr. Ranjeet Kr. Pandey, Advocate
For Respondent No. 4 : Mr. Sanjay Kumar, Advocate
Mr. Pankaj Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-02-2025

Heard learned counsels for the parties.

2. In the Instant Letters Patent Appeals, appellant has assailed the order of the learned Single Judge dated 06.08.2019 passed in C.W.J.C. No. 17764 of 2016 connected with C.W.J.C. No. 4506 of 2017. Appellant- *Smt. Vishnu Devi* is a Guarantor to M/s Maurya Dhawaz Agrotech Pvt. Ltd. As a Guarantor she has created equitable mortgage of land and building standing in her name. M/s Maurya Dhawaz Agrotech Pvt. Ltd. (For short “Ltd. Company”) borrowed a term loan of Rs. 133 lakhs and CC limit Rs. 18 lakhs was sanctioned on 16.11.2005. Thereafter, term loan was enhanced to Rs. 161.50 lakhs and C.C. limit was enhanced to Rs. 110 lakhs on 20th February, 2008. Due to default in repayment, account was declared as NPA. Respondent- UCO Bank (For short “Bank”) preferred O.A. No. 258 of 2011 under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 for recovery of Rs. 3,21,29,564/- as on 30th October, 2011 along with further *pendentelite* and future interest at the contractual rate from 01.11.2011 till full and final realization of the actual payment. O.A. No. 258 of 2011 was allowed on 27.08.2012,



thereafter Bank preferred R.P. No. 273/2012 before the D.R.T., Patna in which also appellant suffered an order on 01.06.2016. In the guise of implementation of the order dated 01.06.2016, R.P. No. 273 of 2012, District Magistrate, Darbhanga proceeded to provide assistance insofar as handing over the possession of the subject land. In this regard he has appointed Circle Officer. Possession was taken over by the Bank on 08.04.2017. Appellant has suppressed insofar as taking over the possession of the subject land, resultantly, he had interim order benefit before the learned Single Judge on 21.04.2017 with certain conditions. The same was subsequently noticed by the learned Single Judge and proceeded to modify that order on 02.04.2019 while taking note of the fact of possession of subject land. In this backdrop, appellant assailed the order of the District Magistrate in writ petition to the extent that it is not in accordance with law. Learned Single Judge rejected the appellant's writ petition vide C.W.J.C. No. 17764 of 2016 connected with C.W.J.C. No. 4506 of 2017. Hence, the present L.P.A.

3. Learned counsel for the appellant vehemently contended that District Magistrate has issued a notice on 20th September, 2016 for appearance and it is without authority of



law and it has to be set aside. The same has not been appreciated by the learned Single Judge. Except this contention, none other contentions have been urged by the appellant's counsel in the present L.P.A.

4. Perusal of the various proceedings like O.A. No. 258 of 2011 decided on 27.08.2012 read with R.P. No. 273 of 2012 dated 01.06.2016 and consequential action taken by the District Magistrate, Darbhanga it appears that *prima facie*, District Magistrate has not committed any error. On the other hand, he has only executed the order of the recovery proceedings dated 01.06.2016. It is necessary to re-produce order passed in R.P. No. 273 of 2012 dated 01.06.2016 and it reads as under:-

“Sh. Umapati Jha, Advocate, is appointed as the Advocate Commissioner for execution of order dt. 24.5.2016 for handing over the possession of the auctioned property to the purchasers by the CH Bank and he will be paid a professional fees of Rs. 15,000/- (Rupees fifteen thousand only) by the purchaser and Rs. 15,000/- (Rupees fifteen thousand only) will be paid by the C.H. Bank to the Ld. Advocate Commissioner.

2. District Magistrate, Senior Superintendent of Police, and Local Police Station would extend all administrative and police support to the Ld. Adv. Commissioner to carry out peaceful handing over of the possession.

3. Circle Officer of the area will take necessary action for mutation of the



property in the names of auction purchasers.

4. Let a copy of this order along with copy of order dated 24.5.2016 be handed over to the certificate holder bank and Advocate Commissioner for compliance. The concerned Branch Manager shall extend all support to the Advocate Commissioner in execution of said order.

List on 09.6.2016.”

5. In the light of the aforementioned order, District Magistrate proceeded to comply the order dated 01.06.2016. Therefore, there is no infirmity in the District Magistrate action insofar as facilitating Respondent-Bank and petitioner and others insofar as handing over the possession of the subject property in favour of Respondent-Bank.

6. Appellant had statutory remedy of appeal before the DRAT insofar as assailing the judgment dated 27.08.2012 passed in O.A. No. 258 of 2011 and further has remedy of filing appeal before the Presiding Officer, DRT in assailing the order dated 01.06.2016 passed in RP No. 273 of 2012. Without resorting to such statutory remedy which was available to the appellant, appellant has preferred C.W.J.C. No. 17764 of 2016 and 4506 of 2017.

7. In the light of these facts and circumstances, appellant has not made out a case so as to interfere with the order of the learned Single Judge dated 06.08.2019 passed in



C.W.J.C. No. 17764 of 2016 connected with C.W.J.C. No. 4506
of 2017. Accordingly, the present L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

rakhi/-

AFR/NAFR	
CAV DATE	N.A.
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