

(2012) 06 JH CK 0095

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1547 of 2012

Bhaghwati Prasad Agarwala

APPELLANT

Vs

Allahabad Bank

RESPONDENT

Date of Decision : 26-06-2012

Acts Referred:

Citation : (2012) 4 JLJR 486

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Indrajit Sinha, for the Appellant; R.R. Nath, for the Respondent

Final Decision : Dismissed

Judgement

N.N. Tiwari, J.—The petitioner has prayed for quashing the order contained in letter dated 4th January, 2012 issued by the respondent informing the petitioner that the respondent has decided that the property purchased by the petitioner on auction sale be put to resale and the amount deposited by the petitioner be forfeited. The said letter has been challenged on the ground that the petitioner had purchased the property in the hope of getting vacant possession of the same. When he visited the site, he found that hoarding boards fixed on thick iron pillars and iron angles, were not removed. Under that circumstance, the petitioner was not able to get vacant possession of the property. For that reasons, he did not deposit the balance amount. The petitioner cannot be said to be at fault. The decision of the respondent-Bank for forfeiting the bid amount is wholly arbitrary and illegal and the same is liable to be quashed by this Court.

2. I have heard learned counsel for the petitioner and considered the facts and materials on record. On perusal of the impugned letter (Annexure-9), I find that the Bank has mentioned clear reasons for issuing the said letter. It has been stated that the property was sold on "AS IS WHERE IS BASIS" and after completion of the process of auction and acceptance of bid as successful, no objection regarding defect in auctioned property at all is tenable. The said

decision has been challenged on the ground that the vacant possession of the property was to be handed over to the petitioner. But nothing has been brought on record to show that the possession was to be given after removing the hoarding/board and iron pillars etc. It has not been denied that the sale was on the basis of "AS IS WHERE IS BASIS".

3. Learned counsel for the petitioner submitted that those pillars and hoarding boards were put and planted after the process of the bid. But no material has been brought on record to substantiate the same.

4. The relief which has been sought for by the petitioner is based on disputed facts. This Court cannot adjudicate upon and decide the said factual issue in exercise of its writ jurisdiction.

5. This writ petition is accordingly dismissed.

6. However, the petitioner is at liberty to move appropriate forum, if so advised. It is made clear that this Court has not gone into the merit of the rival contentions of the parties. Any observation made in the order is without prejudice to the rights of the parties.