
(2015) 02 PAT CK 0036

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1858 of 2015

Dharmendra Kumar

APPELLANT

Vs

The Zonal Manager Corporation Bank and Others

RESPONDENT

Date of Decision : 19-02-2015

Acts Referred:

Citation : (2015) 02 PAT CK 0036

Hon'ble Judges : Ravi Ranjan, J.

Bench : Single Bench

Advocate : Ranjeet Kumar Singh and Durga Nand Jha, for the Appellant; Manish Kishore, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Dr. Ravi Ranjan, J.—I have heard learned counsel for the petitioner and the respondent-Bank.

2. Petitioner seeks release of his vehicle No. BR06PB3135 which has been seized and sold through action on 25.11.2014 as well as vehicle No. BR06PB3136 which has been seized by the Corporation Bank and steps have already been taken for online sale.

3. This is the second time that the petitioner has approached this Court as he had approached for the selfsame relief by filing C.W.J.C. No. 21190 of 2014 which was disposed of vide order dated 11.12.2014(Annexure 6) in view of the undertakings given by the petitioner which are being noted below for better appreciation:-

"(i) The petitioner must, without fail, pay a sum of Rs. 2 lacs before 11 A.M. on 12th December, 2014 i.e. tomorrow.

(ii) The rest of the amount of Rs. 10.58 lacs will be paid by the petitioner in three equal monthly installments of Rs. 3,53 lacs each. In other words, the petitioner having paid Rs. 2 lacs before 11 A.M. tomorrow shall also pay amount of Rs.

3.53 lacs on or before 15th January, 2015, second monthly installment of a sum of Rs. 3.53 lacs shall be paid on or before 15th February, 2015 and the last installment of Rs. 3.53 lacs shall be paid on or before 15th March, 2015.

(iii) In addition to the aforementioned amount the petitioner shall keep on paying EMI of Rs. 82,580/- per month.

(iv) On payment of the amount of Rs. 2 lacs in the manner indicated above the Corporation Bank shall postpone the auction proposed to be held tomorrow at 11 A.M.

(v) Failure to pay any of the aforementioned amount in the manner indicated above shall automatically lead to denial of any benefit of this order to the petitioner and the Bank will be at liberty to put the vehicle of the petitioner on auction sale.

(vi) On payment of Rs. 2 lacs by the petitioner before 11 A.M. tomorrow the Bank shall release the bus of the petitioner bearing registration No. BR-06PB-3135 but such release will be on an undertaking given by the petitioner that in the event of failure of any of the aforementioned monthly installment fixed by this order or EMI the bus will be liable to be seized again and put on an auction."

4. It further appears from perusal of the aforesaid order that the learned Single Judge was of the opinion that there was no reason to interfere either with the impugned order dated 24.11.2014 or the consequential notice of sale of Bus No. BR06PB 3135 scheduled to be auctioned on 12th December, 2014. That being the situation, the petitioner cannot be allowed to reopen his case on merit. In view of the undertakings given by the petitioner, he was given opportunity to pay rupees two lacs on or before 11.00 AM on 12th December, 2014 and thereafter to pay Rs. 10.58 lacs in three equal monthly instalment of Rs. 3.53 lacs. The first instalment was to be paid on or before 15th January, 2015, second monthly instalment was to be paid on or before 15th of February, 2015 and the third instalment is to be paid on or before 15th of March, 2015. In addition thereto he was also directed to keep on paying EMI of Rs. 82,580/- till the liquidation of the debt.

5. It is admitted position that the petitioner has paid nothing thereafter. He has even failed to pay rupees two lacs on 12th of December, 2014. Thereafter, steps have been taken by the Bank for online auction of the vehicle(bus) concerned.

6. Today, learned counsel for the petitioner submits that he is ready with rupees two lacs and he may be directed to pay the rest amount in instalment. On the submission made by the petitioner, learned counsel for the respondent-Bank gave an option to the petitioner to pay the entire amount, which was due till 15th of February, 2015 as per the earlier direction of this Court by tomorrow and rest as per the schedule but learned counsel for the petitioner has shown inability in doing that and seeks further time. In view of the fact that this Court has already

found in the earlier round of litigation that there is no merit in the case of the petitioner still instalment was fixed, now there is no reason for this Court to grant further indulgence to the petitioner when he has failed to carry out his own undertaking.

7. Accordingly, this writ application stands dismissed.