

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.830 of 2021**

Shyam Prasad Petitioner
Versus
The State of Jharkhand & Ors. Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. Diwakar Upadhyay, Advocate
For the Res. Nos. 1 & 2 : Mr. Debarshi Mondal, A.C. to Sr. S.C. I
For the Res. Nos. 3 & 4 : Ms. Amrita Sinha, Advocate

02/07.09.2021 The present writ petition is taken up today through Video conferencing.

The case of the petitioner is that he preferred an appeal under Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the Debts Recovery Appellate Tribunal, Allahabad (in short "DRAT, Allahabad") against the order dated 23rd August, 2012 passed by the Debts Recovery Tribunal, Ranchi (in short "DRT, Ranchi"). The said appeal was registered as Appeal (T) No.34 of 2013 and was finally disposed of vide order dated 21st October, 2019, whereby the said impugned order passed by DRT, Ranchi was set aside and the appeal preferred by the petitioner was allowed. The operative part of the judgment dated 21st October, 2019 passed by the DRAT, Allahabad reads as under:

"Accordingly, the appeal is allowed and the impugned order dated 23.08.2012 is set aside. The proceedings of the Bank from the stage of possession notice and all subsequent actions are quashed and set aside. The Bank shall return the sale price to the auction purchaser within one month alongwith interest at the rate of 8% per annum simple from the date of deposit till the payment and Rs.1.00 lac as compensation. The appellant/borrower may clear entire dues of the Bank within one month from today to redeem the property, failing which the Bank shall be free to take further steps qua the sale of the property in question from the stage of symbolic possession, in accordance with law."

Learned counsel for the petitioner submits that the main reason for filing the present writ petition is that even after losing the said appeal before the DRAT, Allahabad, the respondent – Bank has raised arbitrary demand against the petitioner as would be evident from letter dated 16th November, 2019 (Annexure-7 to the writ petition) issued by the Branch Manager, Indian Bank, Deoghar Branch – the respondent no.4 directing the petitioner to pay Rs.52,17,031/- (calculated up to 20th November, 2019). The said amount was further reduced and the petitioner was

directed to pay Rs.37,67,517/- vide subsequent letter dated 18th March, 2020 (Annexure-9 to the writ petition) issued by the respondent no.4. It is further submitted that the respondent no.4 has issued letter dated 5th January, 2021 (Annexure-10 to the writ petition) to the petitioner directing him to vacate the property in question.

Ms. Amrita Sinha, learned counsel appearing on behalf of the respondent nos.3 and 4 submits that the demand raised vide letter dated 16th November, 2019 is justified. So far as the issuance of demand vide letter dated 18th March, 2020 is concerned, the same has been arrived at after deducting the amount already paid by the petitioner towards his loan account. She, however, prays for and is allowed four weeks' time to seek instruction and file counter affidavit.

In view of the said prayer, put up this case under appropriate heading on 27th October, 2021.

Till then, the petitioner shall not be evicted from the property in question.

(Rajesh Shankar, J.)

Rohit