

Court No. - 3

Case :- WRIT - C No. - 35360 of 2023

Petitioner :- Sunil Kumar Mishra And Another

Respondent :- Canara Bank Branch Durgakund And Another

Counsel for Petitioner :- Chandra Shekhar Sharma

Counsel for Respondent :- Sanjay Kumar Srivastava

Hon'ble Siddhartha Varma,J.

Hon'ble Manoj Bajaj,J.

1. Sri Sanjay Kumar Srivastava, Advocate has filed his Vakalatnama on behalf of the respondent-Bank, which is taken on record.

2. Heard learned counsel for the petitioner and Sri Sanjay Kumar Srivastava, learned counsel for respondent-Bank.

3. This writ petition has been filed with the following prayers:-

"(i) Issue a writ, order or direction in the nature of certiorari quashing the recovery notice dated 24.7.2023 and 4.9.2023 of Rs.8,11,137/- + interest from 1.3.2017 alongwith incidental charges and cost (Annexure No.2 to the writ petition) issued against the petitioners.

"(ii) Issue a writ, order or direction in the nature of mandamus commanding the respondent nos.1 and 2 to reschedule the loan installments against the petitioners and accept the repayment of aforesaid loan in easy installments."

4. Learned counsel for the petitioners submits that he is ready and willing to pay off the outstanding amount of Rs.8,11,137/- in easy installments.

5. Upon finding that there was an auction fixed, we refrain from interfering in the instant writ petition in view of the findings of the Supreme Court judgment in the case of ***CELIR LLP Vs. Bafna Motors (Mumbai) Pvt. Ltd. and others decided on 21.9.2023 in Civil Appeal Nos.5542-43 of 2023.*** Learned counsel for respondent Bank however has submitted that earlier auction fixed for 27.9.2023 was not successful, we, therefore, provide that if the petitioners approach the bank with a proposal to pay off the loan, which is due to the bank, the bank would consider the proposal sympathetically.

6. With these observations, the writ petition is disposed of.

Order Date :- 31.10.2023

P.S.Parihar