

**HIGH COURT OF TRIPURA**  
**A\_G\_A\_R\_T\_A\_L\_A**

**WP(C) No.83 of 2024**

Sri Bikash Roy

.....Petitioner

-V-E-R-S-U-S-

The Chairman, Tripura Gramin Bank & Others

.....Respondents

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|---------------------|---|--------------------------|
| For Petitioner(s)   | : | Mr. A. K. Pal, Advocate. |
| For Respondent(s)   | : | Mr. P. Saha, Advocate.   |
| Date of hearing and |   |                          |
| Judgment and order  | : | <b>06.02.2024</b>        |

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**HON'BLE MR. JUSTICE T. AMARNATH GOUD**  
**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**\_F\_I\_N\_A\_L\_O\_R\_D\_E\_R\_**

[T. Amarnath Goud, J]

Heard Mr. A. K. Pal, learned counsel appearing for the petitioner  
also heard Mr. P. Saha, learned counsel appearing for the respondents.

The present petition has been filed under Article-226 of the  
Constitution of India challenging the notice against the borrower i.e. the petitioner  
vide reference dated 18.07.2023 issued by the respondent No.4 for recovery of  
loan amount Rs.13,99,679/-.

The petitioner has prayed for the following reliefs:

- “(i) Admit the writ petition of the petitioner.
- (ii) Issue notice upon the respondents;
- (iii) Call for the relevant records from the custody of the respondents;
- (iv) After hearing all the parties, Your Lordship would be kind enough to set aside/quashed/cancel the notice for borrower dated 18/07/2023 (Annexure-B to the writ petition) issued by the respondent no. 4.. Authorised Officer of the respondents bank against the petitioner for fair ends of justice.
- (v) The petitioner also prays before the Hon'ble High Court to restrained the respondents bank not to sell out their mortgaged homestead land and dwelling hut of the father and mother of the petitioner to any.
- (vi) Other persons till completion of the repayment of the loan amount of Rs. 13,99,679/- to the respondents bank for fair ends of justice;

(vii) The petitioner also prays before the Hon'ble High Court to stay the operation of the notice for borrower dated 18/07/2023 till completion of the writ petition and not to proceed to sell the mortgaged landed property of the petitioner i.e. his father and mother.

(viii) The petitioner also prays before the Hon'ble High Court seeking direction against the respondents bank to allow 1(one) year time to the petitioner for repayment of his principle loan amount to the respondents bank for fair ends of justice.”

The facts in brief are that the petitioner is a business man and he took a CC loan from the respondents bank for starting a dealership business at Maharajganj bazaar for selling mosquito coil and in this regards, the petitioner obtained a CC loan limit up to Rs.10 to 14 laks in the year 2019 from the respondent bank. Thereafter, the petitioner deposited the amount in the bank account of one dealership company namely A.M. Homecare Products at behind of FCI go-down Maiher bye-pass road, Satna (Madhya Pradesh) State for supplying mosquito coil to his business centre of petitioner at M.G. Bazar. But after getting the said amount from the petitioner, the said company stopped the supply of the mosquito coil to the petitioner for his dealership business, as a result the petitioner has been suffering huge loss of business and he is not in a position to repay his loan installments time to time to the respondents bank, as a result the bank declared his CC account as NPA.

Thereafter, the petitioner requested the respondent bank to get some time for making repayment the loan amount within six months from the date of issue of the notice for sellout his mortgaged homestead land including dwelling hut by the respondents bank, that it is mentioned that the petitioner has cleared his interest on the said loan up to December, 2023, but due to financial crisis he did not able to make repayment of his loan amount to the respondent bank and hence the petitioner filed this writ petition before this Court for seeking directions against the respondent bank not to sell the mortgaged land of the father and mother of the petitioner and to give 1 (one) year time for repayment of the entire loan amount of Rs.13.99,679/- to the bank and the petitioner also seeking direction against the respondents to stop the operation of the borrower for notice dated 18/07/2023 till disposal of the writ petition.

Mr. A. K. Pal, learned counsel appearing for the petitioner has submitted that the petitioner including his family have been suffering due to mental pressure creating by the respondent-bank. The engaged anti social persons

and their agents several time threatened the petitioner and his family members to vacate the mortgaged homestead land. The petitioner undertakes that he will repay the entire loan amount to the respondent-bank within one year from the date of filing of this writ petition.

In view of above and having heard the learned counsel appearing for the parties we are of the view that the present writ petition has been filed assailing the notice issued on 18.07.2023 by the respondent bank under Section-13 of the SARFAESI Act. The petitioner obtained a loan from the respondent bank and accordingly to the best of this ability has cleared the major portion but still some amounts are yet to be paid and at this juncture, without considering his amounts already paid, the bank issued the said notice. He further contended that he is ready to pay and settle the amounts if reasonable opportunity i.e. one year time is granted for paying the amount in regular installments and prayed this Court to come to his protection.

Mr. P. Saha, learned counsel appearing for the respondent-bank has submitted that the petitioner has not approached before this Court with clean hands. Hence, the petitioner is liable to pay the amount and he cannot seek any relief by approaching this Court.

This Court is of the opinion that in the SARFAESI Act the scope of interference is very limited and more so, the petitioner has not pointed out any reasons as to why such notice under Section-13 of the SARFAESI Act issued by the respondent bank should be interfered with. Insofar as other contentions and the prayers sought for by the petitioner with regard to the amount he has paid and indulgence for granting him time to pay the amount in installments, cannot be considered under Article-226 of the Constitution of India. However, it is always open for the petitioner to approach before the appropriate forum seeking any redressal.

In that view of the matter, the present writ petition stands dismissed. As a sequel, miscellaneous application pending, if any, shall stand closed.

**B. PALIT, J**

**T. AMARNATH GOUD, J**

*A. Ghosh*

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