IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5449 of 2014

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Md. Jilani Son of Md. Fazal Imam, Resident of Mohalla- Bind Toli, P.S. Arrah Town, P.O. Arrah, District- Bhojpur

.... Petitioner

Versus

1. Punjab National Bank through its Authorized Officer, Punjab National Bank, Circle Office, Arrah, District- Bhojpur
2. The Branch Manager, Punjab National Bank, Branch Arrah, P.O. and P.S. Arrah, District- Bhojpur
3. The Presiding Officer, Debts Recovery Tribunal, Patna
4. The State of Bihar, Patna
5. The District Magistrate, Bhojpur, Arrah
6. The Superintendent of Police, Bhojpur, Arrah
7. The Officer Incharge, Arrah Town Police Station, Arrah

.... Respondents

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Appearance :

For the Petitioner : Mr. Abdul Mannan Khan,
Mr. Md. Harun Quareshi, Advocates

For the P.N.B. : Mr. Kumar Priya Ranjan, Advocate

For the State : Mr. Anshuman Singh, G.P. 24,
Mr. Siddharth Shankar Pandey, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 13-02-2015

I have heard learned counsel for the petitioner and the Punjab National Bank.

Petitioner seeks following reliefs:

> "I. For issuance of a writ of certiorari or any other appropriate writ order or direction for quashing the

> orders dated 23.12.2013 in M.A. No.291 of 2013 and order dated 13.05.2013 in M.A. No.14 of 2013 passed by the Presiding Officer, The Debts Recovery Tribunal, Patna most arbitrarily directing the petitioner to pay an amount of Rs.10,60,02.60 within three months of the last order i.e.23.12.2011.
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> > A true copy of orders dated 23.12.2013 in M.A. No.291 of 2013 and order dated 13.05.2013 in M.A. No.14 of 2013 are annexed herewith and marked as Annexure-1 & 1/1 respectively to this writ application.
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> II. For issuance of a writ of mandamus or any other appropriate writ, order or direction restraining the respondents from taking possession of the mortgaged shop for the realisation of quite inflated and highly excessive interest upon the loan in question in respect which has already become time bared.
>
> III. For issuance of an appropriate writ, order or direction restraining the respondents authorities from taking any coercive steps or interfering in the possession of Mortgaged shop during the pendency of this writ petition.
>
> IV. Any other relief or reliefs may be granted in favour of the petitioner as your lordships may deem fit and proper."

It is submitted on behalf of the petitioner that the Bank is bent upon to give inflated statement of account etc. charging enormous interest. The petitioner had approached the Debts Recovery Tribunal, Patna by filing M.A. No.14 of 2013 against the action of Bank taken under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Act, 2002 (hereinafter referred to be as "the Act"). The Debts Recovery Tribunal has noticed that the respondent Bank has already supplied the statement of account to the petitioner and has further stated that outstanding a sum of about Rs.10,60,020.60/- is due whereas, the value of the concerned property is more than rupees twenty five lacs. The Tribunal had directed the applicant to pay the rest of dues before the Bank within three months and, if he had any objection, he may file a representation before the Bank within seven days and, accordingly, the Bank was directed to consider the same within 15 days. With such observations and directions the concerned M.A. No.14/2013 was disposed of on 13.05.2013. The petitioner, thereafter, again filed M.A. No.291 of 2013 (Annexure 1). The Tribunal took note in the order dated 23.12.2013 disposing of the case that despite the direction contained in the order dated 13.05.2013 passed in M.A. No.14/2013, the petitioner did not comply the order. It has further been noticed that total due amount is Rs.10,60,020.60/- and the appellant has already deposited three lacs by the intervention of the Court. Accordingly, the appellant was directed to pay the rest amount within three months from the date of passing such order in equal monthly instalments as last chance. Further relief was granted to the petitioner that no SARFAESI and cost would be charged by the Bank. Still the petitioner has challenged the aforesaid orders passed by the Debts Recovery Tribunal.

Learned counsel for the Bank has submitted that this is only a dilatory tactics which has been adopted by the petitioner as he is not inclined to pay the debt to the Bank and he wants to ensure that no step could be taken for recovery of the amount as per the provisions contained in the Act. Learned counsel further submits that if the petitioner is aggrieved by the orders of the Debts Recovery Tribunal the course open to him was to file an appeal before the appellate tribunal under Section 18 of the Act and not by filing the writ petition under Article 226 of the Constitution of India.

I find force in the submission raised on behalf of the Bank.

The complaint of the petitioner that the Debts Recovery Tribunal has not considered anything is not sustainable as Debts Recovery Tribunal had given sufficient time for payment of dues. The time had been extended twice and he was also given opportunity to pay in instalments but he did nothing except depositing rupees three lacs during the pendency of such cases before the Tribunal. Petitioner has also not challenged the order passed by the Debts Recovery Tribunal by filing any appeal.

In above view of the matter, I do not find any reason to make interference in the orders passed by the Debts Recovery Tribunal.

Accordingly, this writ application is dismissed. However, this order would not come in the way of the petitioner in filing any statutory appeal before the concerned Tribunal. In such case, the concerned Tribunal would be at liberty to consider the case in accordance with law.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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