

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14293 of 2015

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Srishti Clothing Pvt. Limited, through its Managing Director, namely, Sumant Kumar Resident of Sahai Bhawan, Rajendra Path, P.S. Kotwali, District Gaya, at present E-402, Sukun Residency-I, New CG Road, Chandkheda, District Ahmedabad (Gujrat)

.... Petitioner

Versus

1. Dena Bank through its Manager Adipur Branch, T.B.X-110, Rajendra Chowk, Aadipur, (Kutch 370205) Gujrat.

2. Zonal Manager-cum-Authorised Officer, Dena Bank, Zonal office, 2nd Floor, N.P. Tower, Kankarbagh Main Road, Town and District Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Madhuresh Prasad,
Mr. Abhay Shankar, Advocates

For the Respondents: Mr. Jitendra Kumar Roy
Mr. Shivendra Kumar Roy, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-09-2015

The present writ petition has been filed for quashing the possession notice dated 19.08.2015 issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, “the SARFAESI Act”) as contained in Annexure-8 of the writ petition.

2. Learned counsel for the petitioner submits that the proceeding under Section 13(4) of the SARFAESI Act is unsustainable considering that the respondent-Bank has yet to determine the precise amount of ‘debt’ said to be owing from the petitioner, as evident also from paragraph 8 of the order of the Debts Recovery Tribunal-II, Ahmedabad dated 04.09.2014 in O.A. No.92 of

2006 (Annexure-6) wherein it has been observed that the applicant-Bank has not produced the complete statement of account relating to the petitioner.

3. Be that as it may, learned counsel for the respondent-Bank submits that the proceedings under the SARFAESI Act are independent and the possession notice itself discloses the debt to the tune of amount of Rs.62,19,789/- (as on 08.08.2006). In any event, learned counsel submits that the complete details of the amount said to be outstanding against the petitioner shall be supplied to it.

4. Having regard to the stand of the parties and on careful consideration of the materials on record, this Court is of the view that the ends of justice will be met by directing the respondent-Bank to furnish the details of the debt up-to-date as owing from the petitioner, within a period of three weeks from the date of receipt/production of a copy of this judgment. The petitioner shall also be at liberty to inform the respondent-Bank with regard to any claim for payment mode or other credits to which it may be entitled, within a week hereof.

5. Until such time as the details of the outstanding debt are supplied to the petitioner, the impugned possession notice dated 19.08.2015 (Annexure-8) shall remain stayed.

6. It is made clear that this order shall not stand in the

way of the petitioner in applying under any One Time Settlement Scheme as may be available.

7. The writ petition stands disposed of.

(Vikash Jain, J)

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