IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13128 of 2011

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Mahendra Pratap Singh Chauhan, Son of Late Triveni Singh, Proprietor of M/s Nagina Industries, Plot No.II, D-54, Industrial Area, Bokaro Steel City, presently residing at Srijan Society, 5/597, 3rd Floor, Vaishali Sector-5, P.S.- Vaishali, Ghaziabad, Uttar Pradesh

.... Petitioner

Versus

1. The Bihar State Financial Corporation, Fraser Road, Patna through Its Managing Director
2. Managing Director, Bihar State Financial Corporation, Fraser Road, Patna
3. Branch Manager, Bihar State Financial Corporation, K.C.I., City Centre, Bokaro Steel City (Opposite Mamta Nursing Home), Bokaro, Jharkhand

.... Respondents

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Appearance :

For the Petitioner : Mr. Subhash Chandra Bose, Advocate

For the Respondents: Mr. Partha Sarthy, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-10-2015

The present writ petition has been filed for quashing the sale notice published on 08.06.2011 in the daily Newspaper, "Prabhat Khabar", whereby offers have been invited for purchase of the petitioner's unit and for necessary direction to the respondents to rectify the amount of principal and to accordingly calculate the balance OTS amount payable by the petitioner and to condone the delay in payment of the same.

2. It is submitted on behalf of the petitioner being the purchaser of the mortgaged assets of the erstwhile borrower, namely, M/s Nagina Industries, that while computing the petitioner's liability under the One Time Settlement Scheme, 2009 (for short, "OTS

Scheme") the respondent–Corporation inadvertently and erroneously added the interest amount for the period from 01.03.1993 to 28.02.1995 i.e. upto to the date of sale agreement as part of the principal, which resulted in the petitioner being required to pay the principal amount for Rs. 8,36.019.00 for the purpose of the OTS Scheme as against the correct principal amount of Rs.7,60,035.10 on the basis of physical possession of the unit having been handed over on 24.06.1993 to the petitioner.

3. A counter affidavit has been filed of behalf of the respondent-Corporation which discloses that on a reconsideration of the matter, the claim of the petitioner has been found correct and the principal amount has now been correctly calculated Rs. 7,60,035.10. After granting adjustment of Rs. 1,81,251.27 being 25% of the sale consideration amount of Rs. 7,25,000/- already deposited by the petitioner, an amount of Rs. 5,78,783.83 remains towards the net principal amount.

4. In the above view of the matter, the writ petition is disposed of granting liberty to the petitioner to approach the respondent-Corporation and make payment of the requisite amount in terms of the OTS Scheme 2009 within a period of one month from the date of receipt/production of a copy of this judgment. Any delay in payment of such amount shall be treated as condoned having regard to

the fact that there was some inadvertence in calculation at the end of the respondent-Corporation. If the petitioner makes requisite payment within the stipulated time as aforesaid, the respondent-Corporation shall not proceed with the sale notice dated 08.11.2011 as contained in Annexure-16 of the writ petition, insofar as it concerns the petitioner.

(Vikash Jain, J)

B.T/-

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