

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21256 of 2014

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New Ayush Dairy Udyog. N.H. 28, Laxmipur Raxaul, through its Managing Director and Proprietor Er. Shesh Nath. Son of Dharman Prasad. Village AND Post - Gamhariya Kala, P.S. - Adapur, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar, through D.M. East Champaran.
2. The Chief Secretary, Government of Bihar, Patna (Old Secretariat).
3. The Allahabad Bank having its to Head Office - 2, N.S. Road, Kolkata - 700001 (West Bengal) .
4. The Chief Manager, Allahabad Bank, Main Branch, Budh Marg, Patna.
5. The Zonal Manager, Zonal Office, Allahabad Bank, Om Shanti Complex, Opposite Zila School, P.O.- Ramana, District - Muzaffarpur.
6. The D.G.M. Zonal Office, Allahabad Bank, Muzaffarpur.
7. The A.G.M. Zonal Office, Allahabad Bank, Muzaffarpur, Bihar.
8. The Sr. Manager, Allahabad Bank, Raxaul Branch, Raxaul, East Champaran.
9. The Authorised Officer, Allahabad Bank, Om Shanti Complex, Opposite Zila School, Ramana, Muzaffarpur, District - Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh
For the State : Mr. GA4- Ashok Priyadarshi
For the respondent nos. 2, 4, 6 7 & 8: Mr. Sanjay Singh Thakur, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 19-01-2015 Heard learned counsel for the parties as with regard to the following reliefs, prayed in this writ application:-

“For issuance of a writ in the nature of certiorari for quashing of the entire proceedings of recovery of outstanding arrears of loan initiated by the Respondents under section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (hereinafter referred as the SARFAESI Act) including the notice under section 13(2) of SARFAESI Act and dated 12.03.2014 of notice of possession issued by the respondents authorized Officer us 13(4) against Term Lone Account No. (1)

50059624815 (2) 50094747165 and (3) CC/A/C NO. 21448645762 belonging to the petitioner company without any service of notice of demand u/s 13(2) of the said Act which is mandatory in the scheme of the Act.

For issuance of a writ in the nature of mandamus directing the Respondents to issue certificate of regularity of standard status of Loan Account in the name of petitioner in the light of the fact that the same is not running in arrears and is regular account within the parameter set of in the guidelines issued by the Reserve Bank of India.

For issuance of a writ in the nature of mandamus directing the respondents to disburse the balance or the sanctioned term loan amount to the petitioner's unit with respect to Account to the petitioner for no just and reasonable cause and reschedule the said account in order to enable the petitioner to complete its project and repay the loan amount to the Respondents bank in accordance with the newly settled schedule.

For issuance of a writ in the nature of declaration that the respondent bank and its authorities illegally, arbitrarily and unreasonably withheld the disbursement of sanctioned term loan to the petitioner and pushed the petitioner towards incipient sickness and also arbitrarily proceeded to categorize the account as no performing asset and consequent action of recovery of the entire loan by way of adopting coercive measures under section of the SARFAESI Act 2002."

Having regard to the fact that the learned counsel for the petitioner has failed to satisfy this Court as to why the petitioner ought to have not moved the Debt Recovery Tribunal against the impugned order passed under Section-13(4) of the SARFAESI Act, this Court will have no other option but to dismiss this writ

application.

When such an observation has been made, learned counsel for the petitioner seeks permission to withdraw this application in order to enable the petitioner to move before the Debt Recovery Tribunal against the impugned order.

That being so, this writ application is permitted to be withdrawn with the aforementioned liberty.

(Mihir Kumar Jha, J)

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