

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14459 of 2015

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Dinesh Kumar, son of Janki Prasad Singh, resident of at Nayatola Madhopur,
Bakhtiyarpur, P.S.- Bakhtiyarpur, District- Patna.

.... Petitioner/s

Versus

1. Dena Bank, through its Chairman- cum- Managing Director, having its Head Office at Dena Corporate Centre, Bandra Kurla Complex, Bandra (E) Mumbai- 400051.
2. The Chief General Manager, Dena Bank, having its Head Office at Dena Corporate Centre, Bandra Kurla Complex, Bandra (E) Mumbai- 4000051.
3. The Chief Manager, Dena Bank, Maurya Lok Complex Branch, P.S.- Kotwali, District- Patna.
4. The Branch Manager, Dena Bank, Station Road Branch, Bakhtiyarpur, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Adv.

For the Respondent/s : Mr. Sheela Sharma, Adv.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 02-12-2015

Heard learned counsel for the petitioner and the Respondents.

2. The present writ petition has been filed for setting aside the notice dated 23.04.2014 issued to the petitioner along with others in R.P. Case No. 101/2013 received by the petitioner on 30.05.2014 with regard to recovery of debt/loan along with interest amounting to Rs. 11,42,689/- lodged by the Respondent Bank before Debt Recovery Tribunal, Patna and for connected reliefs.

3. It appears that the petitioner was the guarantor



in respect of the cash credit limit of Rs. 3,00,000/- sanctioned in favour of one Bindhwasini Enterprises, having submitted a letter of guarantee dated 12.04.2006 and in respect of which the petitioner also deposited the original sale deed of the residential house as collateral security. In due course, the cash credit loan was declared as N.P.A. by the respondent Bank and finally the petitioner's mortgaged property was auctioned for recovery of the dues of the respondent Bank under the orders of the D.R.T., Patna.

4. It is submitted on behalf of the petitioner that he is willing to make payment of the entire dues.

5. Learned counsel for the respondent Bank, on the other hand, submits that the writ petition itself is not maintainable as third party rights have been created pursuant to auction sale of the petitioner's property and the auction purchaser has not been impleaded as a party respondent. That apart, it is submitted that the petitioner has not approached this Court bona fide and has no intention of making payments but merely to stall the process of recovery as even in the past he has not made any attempts to liquidate the dues at any stage.

6. Having heard the parties and on consideration of the materials on record, this Court does not find merit in the writ petition. Despite several notices having been issued to the petitioner during the process of recovery of dues, the petitioner

has given no sign of his intention to make any payment. So much so that in OA No. 238 of 2012, the ordersheet dated 5.7.2013 reflects that an opportunity was specifically granted for settlement of N.P.A. account on the request of learned counsel for the defendants, but once again the petitioner chose not to make any payment whatsoever despite such indulgence being granted.

7. In course of hearing of the present writ petition, this Court took note of the petitioner's claim that adequate funds were now available to readily liquidate the entire dues. Accordingly, indulgence was granted to produce the details of the funds claimed to be available with the petitioner for making payment. Despite such opportunity however, except mere oral repetition of the claim of availability of funds, nothing has been brought and no material has been shown in support of such claim.

8. This Court is therefore not satisfied that the petitioner deserves any further indulgence in the matter. The writ petition is devoid of merit and is dismissed as such. I.A. No. 8538 of 2015 stands disposed.

(Vikash Jain, J)

Md. Ibrarul/-

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