

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1806 of 2016
IN
Civil Writ Jurisdiction Case No. 309 of 2016**

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Tahiti Resort Pvt. Ltd. through Tripurari Prasad Singh S/o Late Ram Narayan Singh
Tahiti Resort Pvt. Ltd, NH - 31 Singhaul, District - Begusarai.

.... Appellant/s

Versus

1. I D B I Bank, Frazer Road Main Branch, Patna.
2. Authorised Officer (SARFAESI ACT) IDBI Bank, 44, Shakespeare Sarni, Kolkata - 700017.
3. Assistant Manager Recovery NPA, IDBI Bank, 44 , Shakespeare Sarni, Kolkata - 700017.
4. District Magistrate, Begusarai, District Begusarai.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Y.V. Giri, Sr. Advocate. Mr. Raj Dular Sah, Advocate.
For the IDBI	:	Mr. Shivendra Roy, Advocate.
For the State	:	Mr. Ravi Ranjan, AC to SC 22.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-10-2016

Heard Mr. Y.V. Giri, learned Senior Counsel appearing on behalf of the petitioner, and Mr. Ravi Ranjan, learned Counsel appearing on behalf of the State. We have also heard Mr. Shivendra Roy, learned Counsel appearing on behalf of the respondent Bank.

This appeal has been preferred, under Clause 10 of the Letters Patent of the Patna High Court, by the writ petitioner being

aggrieved by the order, dated 23.08.2016, passed in C.W.J.C. No. 309 of 2016, whereby the learned Single Judge has disposed of the writ application with the following direction :

“that the petitioner shall pay on or before 13th September, 2016 an amount of Rs.32 lacs to the Bank and thereafter continue to pay every month on or before 13th of the said month similar amount of Rs.32 lacs per month and in the 12th and final instalment shall pay the balance amount and the expenses of the Bank. On default to pay any of the instalments, it shall be open to the Bank to take recourse to appropriate proceedings for realization of the amount. It shall also be open to the petitioner to represent before the Bank regarding correctness of the statement of accounts as has been filed or any other prayer for grant of benefit regarding reduction of interest, etc. as may be advised, which shall be considered and disposed of by the Bank by a speaking order”.

Considering the present appeal what is to be pointed out is that during the pendency of the writ petition, the respondent bank rejected the writ petitioner-appellant's proposal for restructuring of dues as well as the proposal for one time settlement. The rejection of the restructuring of the dues was conveyed to the writ petitioner-appellant by the respondent bank, on 17.02.2016, whereas the

proposal, for one time settlement, was rejected by letter, dated 08.04.2016.

It is pointed out by Mr. Y.V. Giri, learned Senior Counsel appearing on behalf of the appellant, that neither in the letter, dated 17.02.2016, nor in the letter, dated 08.04.2016, the respondent bank mentioned any reason as to why the proposals, which had been given by the appellant-petitioner to the respondents, seeking restructuring of the dues or for one time settlement of the dues, were not acceptable to the respondent-bank and/or why the writ petitioner-appellant's request made, in this regard, was rejected.

From perusal of the order under appeal, we notice that the learned Single Judge has not decided the legality or otherwise of the rejection by the respondent Bank so far as the proposals for restructuring of the dues or for one time settlement made by the writ petitioner-appellant are concerned. To this extent, therefore, the order, under appeal, needs re-consideration by the learned Single Judge.

In view of the above and in the interest of justice, we set aside the order, dated 23.08.2016, and direct the Registry to place the C.W.J.C. No. 309 of 2016, for its re-consideration in the light of the contents of I.A. No. 6681 of 2016 and other materials on record.

In the result and for the foregoing discussion, this appeal stands allowed partly to the extent as indicated above.

Let *status quo* as on today shall be maintained until the writ petition is taken up by the learned Single Judge.

Let the C.W.J.C. No. 309 of 2016 be placed before appropriate Bench on 20.10.2016.

(I. A. Ansari, CJ)

(Dr. Ravi Ranjan, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.10.2016
Transmission Date	