IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5913 of 2016

==

Rakesh Roshan Gupta S/o Raghunath Prasad Gupta resident of Flat No. - 305, C/o Satyam Apartment, Montessori School Lane, Boring Road, P.S. - S.K. Puri, Distt. - Patna.

.... Petitioner/s

Versus

1. The Chairman Cum Managing Director, State Bank of India, Nariman Point, Mumbai.
2. The Chief General Manager, State Bank of India, Local Head Office (L.H.O.), West Gandhi Maidan, Patna.
3. The General Manager, State Bank of India, Local Head Office, West Gandhi Maidan, Patna.
4. The Deputy General Manager, Zonal Office, State Bank of India, Bhagalpur.
5. The Chief Manager, State Bank of India, Munger Main Branch, Munger.

.... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Verma

For the SBI : Mr. Kaushlendra Kumar Sinha
Mr. Sunil Kumar Singh

==

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 04-08-2016

Heard Mr. Verma for the petitioner and Mr. K.K. Sinha for the respondent- State Bank of India (for short 'the Bank').

The writ application prays for a direction upon the respondent-Bank not to put on hold the loan amount in the sum of Rs. 2, 57,985/- which was credited in the saving bank account of the petitioner maintained with the respondent Bank.

There is no dispute that the said amount was obtained by way of loan from the Life Insurance Corporation of India and was credited in the saving bank account of the petitioner held with the respondent Bank. The petitioner was then employed with the respondent Bank. However, in a departmental proceeding initiated/launched against the petitioner, he was subsequently dismissed from service. It is also not in dispute that the petitioner obtained diverse loans from the respondent Bank while in service which have not till date been liquidated. Precisely, in this background, the petitioner earlier filed a writ petition being CWJC No. 16181 of 2015 praying for a direction upon the respondent Bank to revert/divert and credit the loan amount of the petitioner in his saving bank account held with the Central Bank of India. On contest, the writ application was dismissed observing as under:-

> "The petitioner appears to be evading payment of his outstanding liabilities owing to the State Bank and in the same breath, he has sought to raise a fresh loan from the LIC to be channelized through his alternative Central Bank account, to be utilized for other purposes.
>
> Having heard the parties and on careful consideration of the materials on record, this Court is not inclined to interfere in the matter. This Court is not satisfied of the petitioner‟s bona fide and will not interfere in its extraordinary writ jurisdiction, which cannot be used as a tool by unconscionable persons to further their questionable ends, specially where dealings with financial institutions and public money are involved."

Aggrieved thereby, a writ appeal was preferred by the petitioner which too was not decided in his favour.

In support of the present writ application, it has been submitted that the respondent Bank has not given notice to the petitioner and the balance amount standing in the account of the petitioner held with the respondent Bank has been put on hold. In all fairness, the Bank ought to have given an opportunity to the petitioner to explain his position by issuing a notice. However, this is not in dispute that the petitioner while obtaining loan(s) from the respondent Bank had executed necessary security documents authorizing the Bank to recover/adjust the loan amount.

Mr. Sinha appearing for the respondent Bank has submitted that although the petitioner has been dismissed from service and his service appeal thereagainst is pending but the dismissal order shall take effect only after liquidation of all the outstanding dues of the Bank against the petitioner. The petitioner was fully aware of the loan dues of the respondent Bank and the undertakings and yet did not bother to pay off those dues. He was proceeded against and dismissed from service.

Having heard the submission of the parties and on perusal of materials on record, I am satisfied that precisely for the same relief the petitioner had approached the writ court by filing a writ petition which was considered and dismissed. The present writ application, in my view, suffers from the principles of *res judicata*. Even on merit, I do not find any reason to allow the writ application and grant relief. It is accordingly dismissed.

(Kishore Kumar Mandal, J)

HR/-

U			