IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8638 of 2016

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Pravin Kumar Singh Son of Sri Ram Bharosa Singh, Resident of Village-Mosadpur, P.O.- Tilrath, P.S.- Barauni, District- Beusarai.

.... Petitioner/s

Versus

1. State Bank of India, through the Branch Manager S.M.E. Barauni Fertilizers Township, Urvarak Nagar, Barauni, P.O.- Barauni, P.S.- Begusarai, District- Begusarai. PIN CODE-851101
2. The Assistant General Manager, State Bank of India, Stressed Assets Management Branch, 5th Floor of Zonal office Building Judges Court Road, Anta Ghat, Patna. PIN CODE-800001
3. Axis Bank Limited through its Branch Head Radha Krishna Market, Patel Chouk, Begusarai. PIN CODE-851101

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shambhu Nath Choubey, Advocate

For the Respondent/s : Mr. Sanjesh Prasad, Advocte

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL ORDER

5 27-09-2016 Heard learned counsel for the petitioner and learned counsel for the State Bank of India.

The petitioner seeks quashing of the order dated 6.1.2016 issued by the respondent-State Bank of India as also the letter dated 17.3.2016 issued by the Branch Head, Axis Bank, Begusarai.

By the letter dated 6.1.2016 the State Bank of India had written to the Branch Manager, Axis Bank, Begusarai informing that the petitioner firm has opened a current account with the Axis Bank which is not in compliance with the RBI guidelines contained in letter dated 15.5.2014 and a request was made to close the account on immediate basis as the credit facilities through the SME Barauni Fertilizer Township Branch and Barauni Industrial Estate Branch have turned bad and a notice under the SARFAESI Act has been issued. It was also requested to lien all present and future credits in the said account in favour of the State Bank of India and arrange for remitting the same. It was further stated that under the SARFAESI Act also the Bank is empowered as secured creditor to get the money from the Axis Bank as the present debtor of the said firm.

Thereafter by the letter dated 17.3.2016 of Axis Bank issued to the petitioner, a reference was made to current account with the said Bank and the letters received from the State Bank with regard to the financial dispute and accordingly the said account was marked debit freeze and the petitioner was advised to get NOC from the State Bank of India, otherwise, it would be compelled to close the account and transfer the proceeds to the State Bank of India.

The case of learned counsel for the petitioner is that the petitioner had applied for and received loans from two Branches of the State Bank of India for 15 tankers to be purchased from the dealer but it received only 12 chassis of tankers and not the rest three. It is alleged that the registration numbers of other three vehicles are not even of tankers but of different types of vehicle including two wheeler. It is also submitted that the Bank had proceeded under the SARFAESI Act but the same was quashed by the DRT.

The stand of the State Bank of India, on the other hand, is that the petitioner had acknowledged the receipt of 15 vehicles by letter dated 25.2.2014 to the Bank which was followed by inspection made on the same day by the Bank verifying the details of the chassis of the vehicles and the same was also insured with the SBI General Insurance for which the premium was again disbursed from the loan account on 21.3.2014.

The further stand of the Bank is that the petitioner wrote to the Bank referring to the request made by Hans Engineering (body-builder) on 16.4.2014 for advance of Rs. 1,35,00,000/- to meet the expenditures required for the Tankers and the number of the Tankers constructed by letter dated 17.4.2015 was also mentioned as 15 whereupon the vehicles lying in the workshop of Hans Engineering for construction of tankers on the Chassis of the vehicles, were inspected by the officers of the respondent-Bank and separate reports were submitted for each and every Chassis. Reference is also made to the letter dated 8.6.2014 submitted by the petitioner with the details of the vehicle sold by Pawan Automobiles Pvt. Ltd. which matches with the purchase invoices and delivery certificates issued by the said dealer.

It is also pointed out that LOI dated 23.6.2014 issued to the petitioner by the Indian Oil Corporation mentions Chassis of those vehicles at Serial Nos. 1,2 and 12 which the petitioner denies to have been received by him.

The petitioner had also written a letter dated 26.12.2014 to the Bank incorporating the status report of the 15 vehicles which again matches with the purchase invoices and sale certificates issued by the said dealer.

It is thus submitted that a totally false claim has been raised by the petitioner in the present matter which is to ensure delay in the recovery of the loan account which has become NPA as the amount has not been paid by him.

It is further submitted that the proceedings under the SARFAESI Act failed on account of certain technical laches with regard to the issuance of notices and thus it cannot be said that the proceedings have been finally and ultimately closed, and the right of the Bank to recover under the SARFAESI Act remains.

On a consideration of the aforesaid facts and circumstances, it does appear that there are serious disputed questions of fact in the present writ application which cannot be gone into in writ proceedings.

In any view of the matter, this Court does not normally interfere in a matter which relates to financial disputes relating to Bank borrowers unless a very good case is made out. I do not find sufficient ground for interference in the matter particularly in view of the facts that have been brought out in the supplementary counter affidavit filed on behalf of the State Bank of India.

The writ application is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

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