

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11813 of 2012

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Om Prakash Tiwari S/O Muneshwar Tiwari Proprietor of Alok Enterprises,
Gopalganj, P.S. + District- Gopalganj

.... Petitioner

Versus

1. The Chief Branch Manager, State Bank of India, Distt. + P.S.- Gopalganj, Main Branch - Gopalganj
2. The Nodal Officer, S.B.I. Main Branch. Patna, P.S. + Distt.- Patna
3. Mr. Kumar Animesh, Recovery Officer, Debt Recovery Tribunal, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. RANJAN KR.SRIVASTAVA, ADVOCATE

Mr. SUMANT BHARDWAJ, ADVOCATE

Mrs. RAJANI GANDHA, ADVOCATE

For the SBI :

Mr. KAUSHLENDRA KR. SINHA, ADVOCATE

Mr. ANJANI KUMAR MISHRA, ADVOCATE

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-07-2016

Heard learned counsel for the petitioner and learned counsel for the respondent Bank.

2. The present writ petition has been filed for quashing the order dated 29.05.2012 passed by the Recovery Officer, Debts Recovery Tribunal, Patna in R.P. No. 02 of 2008 whereby the petitioner's mortgaged immovable properties have been ordered to be sold through public auction.

3. Learned counsel for the petitioner makes a short submission to the effect that the impugned order dated 29.05.2012 has been passed without considering the order dated 06.01.2012 passed by the Debts Recovery Tribunal (for short "the DRT") in M.A. No. 104 of 2011 by which the petitioner was required to make payment of Rs. 7,25,000/- being the

remaining amount out of Rs. 13,25,000/- settled between the parties through compromise, along with further amount of Rs. 15,000/- towards interest. The requisite total of Rs. 7,40,000/- stood paid, as Rs. 3,00,000/- had already been deposited prior to the impugned order of the Recovery Officer and the remaining amount of Rs. 4,40,000/- was paid to the bank through Demand Draft on 11.10.2012 in Court.

4. Learned counsel for the respondent bank on the other hand submits that even though the amount of Rs. 7,40,000/- has been paid in settlement of the account as ordered by the DRT, the petitioner is liable for interest on delayed payment together with statutorily leviable costs, charges and expenses under Section 13(7) of the Securitisation and Reconstruction of Financial Assets And Enforcement of Security Interest Act, 2002, in the instant case being legal charges and miscellaneous charges in all amounting to Rs. 51,628.89 as per calculation contained in bank's letter No. C/M 74 dated 04.12.2012 (Annexure-B to the counter affidavit).

5. In the above view of the matter, learned counsel for the petitioner expresses that the said amount of Rs. 51,628.89 would be paid by the petitioner within a period of four weeks from today.

6. The respondent bank confirms that the said amount of Rs. 51,628.89 if paid may finally settle the entire outstanding from the petitioner and no further amount would remain payable as far as concerns the account of M/s. Alok Enterprises, Gopalganj. It is however, pointed out that further amounts are owing from the petitioner in respect of two other accounts, namely M/s. H.K. Enterprises and M/s. Roopam Kirana as already recorded in the order dated 06.01.2012 passed by the DRT in M.A. No. 114 of 2011.

7. Having regard to the stand of the parties and on consideration of the materials on record, this Court grants liberty to the petitioner to make payment of the outstanding amount of Rs. 51,628.89 in the account of M/s Alok Enterprises within a period of four weeks from today. The impugned order dated 29.05.2012 passed by the Recovery Officer in R.P. No. 02 of 2008 shall remain stayed for a period of four weeks hereof to enable the petitioner to make the requisite payment.

8. It is made clear that if the petitioner makes the requisite payment of Rs. 51,628.89 within the stipulated period of four weeks and represents before the respondent bank for release of the title deeds of the mortgaged property relating only to the account of M/s. Alok Enterprises, Gopalganj, then the respondent bank shall consider and dispose of such representation forthwith in accordance with law.

9. The writ petition stands disposed of.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	13.07.2016
Transmission Date	-