

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6250 of 2011

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Rajan Sinha, son of Late Ishwari Prasad Singh, resident of Police Line Road, P.S. Rampur, District- Gaya.

.... Petitioner/s

Versus

1. Bihar State Financial Corporation through its Managing Director, Fraser Road, Patna.
2. Managing director, Bihar State Financial Corporation, Fraser Road, Patna.
3. Branch Manager, Bihar State Financial Corporation Gaya Branch, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ambarnath Banerjee, Adv.

For the Respondent/s : Mr. Y.V.Giri, Adv.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-03-2016

Heard learned counsel for the petitioner and the respondents.

2. The present writ petition has been filed for quashing the order dated 23.03.2011 passed by the Managing Director of the Bihar State Financial Corporation (for short, "B.S.F.C.") (respondent no. 2) rejecting the OTS application of the petitioner for settlement of his dues.

3. The petitioner being the owner of M/s Universal Tu-bend Industry Gaya took a loan of Rs. 16,00,000/- on 19.02.1987 from the respondent B.S.F.C. but in due course, default was committed in payment of the loan leading to the B.S.F.C. taking steps for auctioning the property in question.

4. The petitioner was given the option to make payment to match the amount of Rs. 77 lacs being the



consideration for the auction sale which was decided in favour of M/s Ramnandi Automobiles Private Limited, Bansi Sadan, Chand Chaura, Gaya. The petitioner was required to make the payment within 21 days of notice dated 13.05.2010 to enable him to retain the property. Admittedly, the petitioner did not make any payment pursuant to such notice rather he sought to avail the OTS Scheme, 2009 for which he was given an application form pursuant to orders of this Court in C.W.J.C. No. 15636 of 2010, but however the petitioner's application was rejected by the impugned order dated 23.03.2011 passed by the respondent no. 2.

5. Learned counsel for the petitioner submits that the rejection of his OTS application is arbitrary and he ought to have been considered for the Scheme having paid the amount of Rs. 17 lacs along with the OTS application.

6. Learned counsel for the respondent Corporation, on the other hand, opposes the writ petition on the ground that the petitioner was not eligible for consideration under the OTS Scheme, 2009, there being no formula thereunder for settlement with the original promoter when sale transaction was in process, as in the present case. This Court in its order dated 23.09.2010 in C.W.J.C. No. 15636 of 2010, had directed the respondents to give the OTS application form to the petitioner, but at the same time making it quite clear that the Court was not expressing any

view on the merits of the petitioner's claims.

7. Having heard the parties and on consideration of the materials on record, this Court does not find merit in the writ petition. Mere grant of the application form for the OTS Scheme 2009 to the petitioner under orders of this Court, and that too without expression of opinion on the merits of the petitioner's claim, cannot automatically entitle the petitioner to the benefits of the OTS Scheme, 2009. It is a matter of record that the auction sale had been ordered in favour of M/s Ramnandi Automobiles Private Limited, Gaya and the petitioner was given an option to retain the property on making appropriate payments which he failed to do. Significantly, M/s Ramnandi Automobiles Private Limited has not even been impleaded as a party respondent in the present writ petition. This Court is of the view that if the OTS Scheme, 2009 did not provide for settlement with an original promoter once steps for auction sale of the property had been taken as contended by the B.S.F.C., the petitioner could not have been granted the benefit of the said Scheme and as such no fault can be found with the order dated 23.03.2011 impugned herein.

8. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

Md. Ibrarul/-

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