

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14493 of 2016

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Abinash Chandra Ojha, son of Late Bageshwar Prasad Ojha, resident of C-7, Mauza-Sheikhpura, Shashi Vihar, Shrinagar, North of A.G. Colony Park, P.S. Shastri Nagar, District- Patna, Bihar

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Finance Department, Government of Bihar, Patna.
2. The State Bank of India through its Chairman, Madam Gama Road, Nariman Point, Mumbai
3. The Assistant General Manager, Stressed Assets Reconstruction Branch (SARB), A-24, Swastik Society, Ist Floor, North Stadium Panch Rasta, C.G. Road, Ahmedabad.
4. The Assistant General Manager, SBI-cum- Authorized Officer, MID Corporate Branch, Trade House.
5. The Deputy General Manager, Asserts Management Group, Corporation Centre Ist Floor, State Bank Bhawan.
6. M/s. Valley Systems Engineers Pvt. Ltd. Company incorporated under the provision of companies through its Managing Director Shri Rakesh Kuamr Ojha son of Shri Abinash Chandra Ojha, resident of 25 Milan Bunglow, Near Rahul Ray Mall, Duma, Road Surat Udho Udyog Sangh, Commercial Complex, Udhana Surat, State-Gujarat.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Senior Advocate
Mr. Arun Kumar

For Respondent State : Mr. Ajay Kumar Rastogi, AAG-10

For the S.B.I.: Mr. Kaushalendra Kumar Sinha
Mr. Sunil Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 07-09-2016 Heard learned counsel for the petitioner and learned
counsels for the State Bank of India and for the State.

The writ application has been filed for quashing the notice dated 25.07.2016 issued under Rule 8 (b) and 7 of the Security Interest (Enforcement) Rules as also for further reliefs.

In the course of submissions, it has transpired that the dues

of the petitioner are to the extent of Rs.8,20,40,947.13 on 31.08.2016 as stated in Certificate produced by learned counsel for the State Bank of India.

It is undertaken by Mr. Arun Kumar, Advocate along with Mr.Yogesh Chandra Verma, Senior Counsel appearing for the petitioner that the petitioner shall clear the entire dues of the Bank in 12 instalments starting from 30th September, 2016 with liberty to negotiate with the respondent-Bank, in the meantime, both with regard to waiver of interest and further for revival, etc. with the further prayer that the proceedings under SARFAESI Act, including the auction-sale, which is taking place today, be kept in abeyance.

In the aforesaid facts and circumstances and considering the aforesaid submissions on behalf of the petitioner, it is directed that the petitioner shall pay on or before 30th September, 2016 an amount of Rs. 75 Lacs to the Bank and shall, thereafter, continue to pay the same amount of Rs.75 Lacs on or before the last date of each succeeding month until the entire dues of the respondent Bank are cleared along with the interest on the reducing balance at the agreed rate. It is, however, made clear that it shall be open to the petitioner to approach the respondent Bank for any waiver of interest as also for rehabilitation, etc. in the meantime. However, it

is further clarified that negotiation with the Bank shall not be a ground for non-payment of any of the instalments. So long as the petitioner continues to pay the instalments, as directed, the proceedings under the SARFAESI Act shall remain in abeyance. Failure of the petitioner to pay any of the instalments shall, however, lead to revival of the same. Since this Court is directing keeping in abeyance the auction sale which is taking place today, it is further made clear that failure of the petitioner to deposit the first instalment shall entail initiation of proceedings of contempt against the petitioner.

The writ application is, accordingly, disposed of with the aforesaid observations and directions.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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