IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 2206 of 2016

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1. Dhana Devi @ Smt. Dhana Kuer W/o Shiopujan Sah.
2. Rani Devi W/o Manoj Kumar Both are R/o Village - Gandhinagar, Beda, P.O. + P.S. - Sasaram, District - Rohtas, Proprietor of M/s Ganpati Mini Rice Mill, at Bambaur Math, Block Sheosagar, District - Rohtas.

.... Petitioner/s

Versus

1. The Chairman, Punjab National Bank Ltd. Ho. 7, Bhikhaji Cama Place, New Delhi.
2. The Regional Manager, Punjab National Bank, Circle Office, Ara, District - Bhojpur.
3. The Chief Manager, Punjab National Bank, Branch Office, Sasaram, P.O. - Sasaram, District - Rohtas.

... . Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 29-02-2016

Heard learned counsel for the parties.

The petitioners have moved the Court for restraining the respondent Punjab National Bank (hereinafter referred to as the 'Bank') from taking steps under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act').

Learned counsel for the petitioners submits that though the action is arbitrary but still they are ready to liquidate the entire dues within three months and in the meantime their mortgage properties which have been put on auction may be kept on hold.

Learned counsel for the Bank submits that the petitioners may make payment of at least 50% for the auction to be stayed.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds the offer given by the petitioners to be reasonable as the Bank is only concerned with recovery of its money and if it is done within three months, the same cannot be said to cause any prejudice to the interest of the Bank. However, the Court is mindful of the fact that the Bank may also need to justify some recovery as the financial year is coming to an end.

Accordingly, the writ petition stands disposed off in the following terms:

The petitioners shall approach the respondent no. 3 along with a copy of this order on 4th March, 2016 when detailed accounting shall be made after adjusting whatever fixed deposit or money of subsidy the petitioners are having in their account. Pursuant thereto, 25% of the said amount would be deposited by the petitioners latest by 28th March 2016. The remaining 75% balance outstanding with up-to-date interest shall be deposited by the petitioners latest by 15th June, 2016.

The Bank in the meantime may proceed with the process of auction/e-auction but the same shall not be finalized. In the event the petitioners liquidate, along with up-to-date interest, the entire outstanding by 15th June, 2016, their mortgage properties shall be free from any charge and the liability shall stand discharged and sale process set aside. However, in the alternative, if the petitioners fail to live up to their commitment before the Court, besides the same having other consequences, the writ petition shall be deemed to have been dismissed and the Bank may proceed with recovery of its dues in accordance with law including confirming of the sale as per the advertisement.

(Ahsanuddin Amanullah, J.)

P. Kumar

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