IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.673 of 2016

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Kunal Kishor Son of Yugal Kishore Narayan Resident of Village Kerma, P.O. Kerma, P.S. Kudhani, District Muzaffarpur (Proprietor of M/S Shree Shai Automobiles, Kerma Chowk, Muzaffarpur).

.... Petitioner/s

Versus

1. The Chief Managing Director, Bank of India, Head Office, Star House, C/S Block. Kurla Complex, Bandra (East), Bandra, Mumbai 400051.
2. The Chief Manager and Authorised Officer, Bank of India, Zonal Office Muzaffarpur, Pankaj Market Saraiyaganj, Muzaffarpur.
3. The Branch Manager, Bank of India, Kerma Branch, District Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Devi Das Srivastava, Advocate

For the Bank of India : Mr. Nishi Nath Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 10-03-2016

Heard learned counsel for the parties.

The petitioner has moved the Court for quashing the Notice dated 26.10.2015 issued by the respondent no. 2 by which a sum of Rs. 2325688.00 with 13.70 % per annum interest has been demanded within 60 days, failing which it has been indicated that action would be taken under Section 13 of the Securitization and Reconstruction of Financial Assets And Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act').

Learned counsel for the petitioner submits that he is ready to pay the loan amount for which five months time may be given, moreso as the petitioner is required to be treated for serious head injury suffered on account of accident.

In view of the offer made by learned counsel for the petitioner, learned counsel for the respondent Bank of India (hereinafter referred to as the 'Bank') submits that the Court may ensure that the Bank is not put to any loss, in case the petitioner defaults on his commitment before the Court to pay the loan amount within five months.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties and also the fact that ultimately the Bank stands to gain by recovering its due amount and no useful purpose shall be served by taking action against the petitioner with regard to the mortgaged assets, the writ petition stands disposed off in the following terms:-

The petitioner shall pay the entire outstanding loan amount, along with the up-to-date interest, to the Bank latest by 31st August, 2016 either in instalments or one-time.

Till then, no further action, including dispossession, shall be taken against the petitioner under the SARFAESI Act. The Court makes it clear that the matter having been disposed off on the undertaking given by the petitioner, any default on his part, besides leading to other penal consequences, shall also entitle the Bank to go ahead and take action, in accordance with law, for recovery of its outstanding dues.

(Ahsanuddin Amanullah, J)

Anjani/-

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