IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17490 of 2011

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Kanchan Gupta wife of Jayant Kumar Gupta, resident of D.D. Road, Ward No. 12, P.O. and P.S. Forbesganj, District Araria.

.... Petitioner

Versus

1. The State Bank of India through the General Manager, Local Head Office, Patna.
2. Divisional/Zonal Manager, State Bank of India-cum-Authorised Officer, Area III, Circle Office, Purnea.
3. Branch Manager, Agriculture Marketing Branch, State Bank of India, Forbesganj, District. Araria.

.... Respondents

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Appearance :

For the Petitioner : Mr. N. K. Malhotra, Sr. Advocate
Mr. Ahileshwar Kr. Sinha, Advocate

For the Respondents : Mr. Alok Kumar Choudhary,
Mr. Kulanad Jha, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 15-03-2016

The present writ petition has been filed for a direction to the respondents to provide the benefit of the scheme known as "Bhartiya State Bank One Time Settlement Scheme" for small and medium enterprises to the petitioner.

2. I.A. No. 7890 of 2011 has been filed with a prayer for restraining the respondents from taking coercive action against the petitioner including dispossession from her house/property by resort of Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act').

3. I.A. No. 7975 of 2011 has been filed stating that excess

amount has been paid by the petitioner and it is accordingly prayed that the respondent-Bank be directed to refund such excess amount.

4. At the very outset, learned counsel for the respondent-Bank invites attention to paragraph 5 of the counter affidavit stating, that the petitioner's case was not considered under SBI Scheme for One Time Settlement of NPA (SBI OTS-SME 2010) in view of the petitioner having been categorized as willful defaulter. It is further stated that subsequently the petitioner has liquidated the entire dues in the said proceedings and the respondent-Bank has since issued no dues certificate to the petitioner on 03.12.2011.

5. No rejoinder has been filed by the petitioner and the above stand of the bank has not been disputed.

6. In that view of the matter, the main prayer in the writ petition with regard to extending the benefit of the OTS scheme to the petitioner has now become infructuous.

7. Similarly, in view of the fact that the entire payment of the loan amount has already been made by the petitioner, the question of taking coercive action against her no longer arises. Thus, I.A. No. 7975 of 2011 has also become infructuous.

8. As regards the claim of the petitioner with regard to excess payment by way of two cheques for Rs. 1,55,971/- dated 26.11.2011 and Rs. 2,22,794/- dated 03.12.2011 respectively as

enumerated in paragraph 1 of I.A. No. 7975 of 2011, no specific stand has been taken by the respondent-Bank in its counter affidavit in this behalf.

9. In the above view of the matter, the writ petition along with the interlocutory applications are disposed of with liberty to the petitioner to represent before the Branch Manager, Agriculture Marketing Branch, State Bank of India, Forbesganj, District Araria (respondent no. 3) for redressal of her grievances with regard to excess payments claimed to have been made through the aforesaid two cheques. In case any such representation is filed within a period of three weeks from today, the same shall be considered on its own merits. The respondent-Bank shall verify as to whether the said two cheques were appropriated towards the outstanding loan and interest thereon as part of the repayment for liquidating the dues before issuance of the no dues certificate. In any event, the Bank shall furnish the statement of accounts in that regard to the petitioner. Upon consideration of the petitioner's representation and after grant of an opportunity of being heard, the Bank shall pass a speaking order disposing of the claim of the petitioner. Needless to day, in case the Bank finds any excess amount having been realized from the petitioner over and above its legitimate dues, the same shall be refunded to her without delay, together with simple interest at the rate

of 9% per annum calculated from the date when the excess amount was realized from the petitioner upto the date of its actual refund. The entire exercise shall be concluded expeditiously and in any event, within a period of four weeks from the date the petitioner's representation is received by the Bank. The petitioner shall cooperate in the matter to ensure expeditious disposal.

(Vikash Jain, J)

B.T/-

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