IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3584 of 2017

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Anil Kumar Jaiswal S/o Late Bhola Prasad Jaiswal, Resident of Govtal, Danapur Cantt., P.O.-Danapur, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Finance Department, Govt. of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Sub Divisional Magistrate Cum Certificate Officer, Patna, Sadar.
4. The Chief Manager, Syndicate Bank, Maurya Complex, Patna.
5. The Branch Manager, Syndicate Bank, Kidwaipuri Branch, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Yadav

For the Respondent/s : Mr. Anil Kumar Singh-GP26

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-07-2017

Heard learned counsel for the petitioner and counsel for the State.

In this case, the petitioner has taken overdraft loan from the Syndicate Bank, Kidwaipuri Branch, Patna, of Rs. 3,28,000/- the account of the petitioner has been declared NPA, on that account, a proceeding under the Public Demand Recovery Act was initiated against the petitioner. In the certificate case, the certificate was issued for payment of Rs. 4,12,777/-.

Learned counsel for the petitioner submits that he has paid more than the certificate amount and, even then, the Bank has put lock upon the premises when the petitioner is ready to settle the outstanding dues.

The Bank has filed its counter affidavit and submits that the statement of the petitioner is not correct. As per Bank, the petitioner has not liquidated the outstanding dues as the outstanding bank's dues in the Overdraft loan facility of Rs. 3.28 Lac is Rs. 9,24,807/-. The amount which has been shown the certificate is of the year 2009 but, in fact, still the petitioner has to pay an amount of rupees as aforesaid. The Bank has initiated a SARFAESI proceeding against him, he was given notice under Section 13(2) as well as 13(4), he never challenged the same and after the order passed under the SARFAESI Act, the District Magistrate was requested to take possession and handover the same.

Learned counsel for the petitioner submits that the petitioner has two overdraft loan accounts, one loan account, he has taken from the Danapur Niyamat Branch of Syndicate Bank, and for that no proceeding is pending against him. This fact has been accepted by the Bank that the loan is not a secured account, that account is not subject matter of consideration before this Court. Only the grievance has been raised by the petitioner that possession of his property has been taken with regard to the account no. 140415.0000048, having claimed that it is not his account. The house has been sealed on account of non-payment of the dues of the aforesaid account which is under challenge before this court. If the notice itself speaks of an account which does not belong to the petitioner, then the action taken in pursuance of notice is not sustainable in law.

Accordingly, the letter dated 21.6.2016 is set aside and the Bank is at liberty to take action in accordance with law.

If the petitioner deposits Rs. 1 lac within a period of one week from today, the Bank will be obliged to open the lock and would pay equal amount in same interval, in this manner, the petitioner would pay total amount of Rs. 3 lac. If he fails to pay the first installment of Rs. 1 lac within a period of one week, the Bank will not be obliged to open the lock.

The petitioner is also directed to approach the Bank, settle the dispute and liquidate the outstanding dues in next six months from the date of settlement of the account.

If the petitioner fails to pay any installment, the Bank will be at liberty to take action against the petitioner in accordance with law.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.07.2017
Transmission Date	NA