IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11452 of 2017

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1. Anil Kumar Singh, Son of Late Nand Kumar Singh, Resident of Village- Susnar, P.S.- Aurangabad (Mufasil) (Bihar) and presently residing at Sarvoday Nagar, Karma Road, P.S.- Aurangabad (Town), District- Aurangabad (Bihar).

.... Petitioner/s

Versus

1. The Punjab National Bank Through Its Zonal Manager, Bihar & Jharkhand Zone, R Block, Patna. null null
2. The Zonal Manager, Bihar & Jharkhand Zone, R Block, Patna.
3. The Regional Manager, Gaya Circle, Punjab National Bank, R Block, Patna.
4. The Chief Manager, Aurangabad Branch, Punjab National Bank, M.G. Road, Aurangabad, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh,
Mr. Sushil Kumar Singh

For the Respondent/s : Mr. Kumar Priya Ranjan

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-08-2017

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

In the present case, petitioner has raised a grievance that house standing in Plot No.307, Khata No.47, Thana No.550, Aurangabad has been taken in possession by the Bank on account of default to liquidate the outstanding dues.

Petitioner has obtained cash credit facilities vide Cash Credit Account NO.0502008700004343 for an amount of Rs. 45 lacs. The benefit was conferred by the Bank but the petitioner has failed to deposit installments which led to initiation of a proceeding against the petitioner under SARFAESI ACT, notice under Section 13(2) of SARFAESI ACT was given, when petitioner could not liquidate the outstanding dues Bank has exercised jurisdiction under Section 13(4) of SARFAESI ACT and took possession of the house.

Learned counsel for the petitioner submits that petitioner is ready to liquidate the outstanding dues and is also ready to pay 25% of the amount within two months.

Learned counsel for the Bank has filed counter affidavit wherein stand of the Bank has been mentioned in paragraph nos. 10 to 16 of the counter affidavit. It will be relevant to quote the aforesaid paragraphs:

> *"10. That it is submitted that the petitioner during course of argument has expressed his view to settle the account under PTS scheme of which the bank has no objection.*
>
> *11. That it is submitted that as on 22.8.2017 the total dues to be recovered from the petitioner is Rs.27, 41,381.88.*
>
> *12. That the bank is ready to settle the dues under OTS scheme, as provided by the RBI time to time.*
>
> *13. That 30% of the dues has to be deposited by the petitioner immediately and the bank will hand*

over the physical possession of the house in question just after receipt of the 30% amount.

14. That it is upon the petitioner to make a reasonable settlement proposal to the bank with specific time and amount with regard to payment, which will be considered by the bank under OTS scheme. It will be mandatory for the petitioner to disclose the reasonable time for payment and its installments.

15. That after settlement under OTS scheme, the amount so agreed upon has to be deposited within 3 months, which will be interest free but in any case if the settlement and agreed amount is not deposited with 3 months the bank will charge interest as per RBI guidelines.

16. That in case of default of the payment of installments or failure of the OTS, the bank will be free to take physical possession of the house in question."

In view of the statement made in the counter affidavit it is clear, Bank is ready to settle the account as and when petitioner will deposit 25% of the amount, the petitioner would be given the possession of the house and after settlement, if he deposits the amount within three months it will be free of interest but in the event he failed to liquidate the amount the Bank will charge the interest over the rest amount as per the guideline of Reserve Bank of India.

In view of the statement made in the counter affidavit the petitioner should approach to the Bank and Bank is directed to give relief under "One Time Scheme" prevalent in the Bank and if the petitioner deposits 25% of settlement amount within two months, on payment of the said amount, the petitioner would be handed over the possession of the house. Bank and petitioner would decide the matter of installments for liquidating the outstanding dues. This Court is of the view, the Bank during negotiation would keep consideration that property which is under security is dwelling house of the petitioner.

The petitioner who is physically present and on his instruction learned counsel for petitioner submits that petitioner to show his bonafide will deposit Rs. 1 lac within a period of one week. If the petitioner deposits the said amount, Bank would accept the same and it will be adjusted while fixing the installment.

In the meantime, the proceeding under SARFAESI ACT will be kept in abeyance. If the petitioner would fail to deposit the installments the SARFAESI proceeding will automatically revive and Bank will be at liberty to take action in accordance with law.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	1.9.2017
Transmission Date	NA