

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 670 of 2016

In
Civil Writ Jurisdiction Case No. 15791 of 2012

=====

State Bank of India Stressed Assets Resolution Centre Branch, situated in Patna, Main Branch, Patna through the Asst. General Manager.

.... Petitioner

Versus

1. Md. Saleem Rizvi S/o Md. Nayeem Hotel Daisy 6 Complex, Dariyapur Baripath, Patna.
2. Safia Bano Wife of Saleem Rizvi resident of Hotel Daisy, Commercial Complex, Dariapur, Baripath, P.S. Pirbahore, District- Patna.
3. Shabistan Saleem @ Sabistan Saleem D/O Md. Saleem Raizvi R/O Hotel Daizy Commercial Complex, Dariapur, Baripath, P.S. Pirbahore, District- Patna.
4. HDFC Bank Ltd., Rani Plaza, 2nd Floor, Exhibition Road, Patna through the Branch Manager.
5. Panjab and Sindh Bank, Haziganj, Patna City, Patna through the Branch Manager.

.... Opp. Parties

=====

with

Miscellaneous Jurisdiction Case No.3669 of 2016

IN
Civil Writ Jurisdiction Case No. 15791 of 2012

=====

Assets Reconstruction Company (India) Ltd. (ARCIL), 113, Maa Bhagwati Complex, 1st Floor, Opp. Verma Complex, Near Boring Road Chauraha, Patna – 800001.

.... Petitioner

Versus

1. Md. Saleem Rizvi S/o Md. Nayeem, R/o - Hotel Daisy 6 Complex, Dariyapur, Baripath, Patna.
2. Safia Bano, W/o- Saleem Rizvi, R/o- Hotel Daisy, Commercial Complex, Dariapur, Baripath, P.S. Pirbahore, District- Patna.
3. Shabistan Saleem @ Sabistan Saleem D/O- Md. Saleem Raizvi R/O Hotel Daizy Commercial Complex, Dariapur, Baripath, P.S. Pirbahore, District- Patna.
4. HDFC Bank Ltd., Rajendra Ram Plaza, 2nd Floor, Exhibition Road, Patna through Legal Manager.
5. Panjab and Sindh Bank, Haziganj, Patna City, Patna through Branch Manager.

.... Opp. Parties

=====

Appearance :

For the Petitioner : Mr. Kaushlendra Kumar Sinha
(In MJC No.670 of 2016)

For the Petitioner : Mr. Sanjeev Kumar
(In MJC No.3669 of 2016)



For the Opp. Party/s
(In both cases)

: Mr. Durgesh Kumar Singh
With Mr. R.C. Narayan
Mr. Amaresh Kumar Sinha
Mr. Sahvind Kumar Sharma

=====
CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7. 17-04-2017 Heard learned counsel appearing on behalf of all the parties in both the petitions.

In both the petitions, prayer has been made to modify the order dated 7th May, 2014 in C.W.J.C. No. 15791 of 2012 and other connected writ petitions and also for modification of order dated 19th November, 2014. In aforesaid cases, by the said order, it was indicated that the committee will be presided over by the officer authorized by the State Bank of India. In view of the fact that the writ petition filed by the Punjab & Sindh Bank was not taken up on 07-05-2014, by a subsequent order dated 19-11-2014, the earlier order was modified and direction was issued that:

“the Committee to conduct the sale of the property in question shall now consist of three officers authorized one each by State Bank of India, H.D.F.C. Bank and Punjab & Sindh Bank, but the Committee shall continue to be presided over by the authorized officer of the State Bank of India.”

While modifying earlier order, it was further directed that:

“Proceeds of the sale shall be shared



proportionately among the State Bank of India, H.D.F.C. Bank and Punjab & Sindh Bank in ratio of 105:82:51."

On perusal of both the orders of the writ court, it appears that State Bank of India authorized Assets Reconstruction Company (India) Ltd. to proceed on the realization of the dues and preside over the said Committee.

Thereafter, the aforesaid petitions were filed for modification of order to the extent that in both the orders i.e. order dated 7th May, 2014 and order dated 19th November, 2014, instead of State Bank of India, the Asset Reconstruction Company (India) Ltd. be substituted.

Earlier, in this case, learned counsel for the State Bank of India was asked to seek instruction as to why besides taking step for recovery of the loan amount, whether any step for initiating criminal case was taken or not ? Learned counsel for the State Bank of India submits that the fact regarding mortgaging of the property, in question, in other case was noticed by the State Bank of India subsequently and as such, it was felt not necessary to initiate criminal prosecution, however; step for recovery of the loan amount was taken and finally, the writ court has passed the order.

Learned counsel for the State Bank of India has taken the Court to an order dated 15-11-2016 passed in M.J.C. No. 662 of 2015 (**Annexure – B** to the supplementary counter affidavit filed



on 30th March, 2017), which was filed by the private opposite party (Md. Saleem Rizvi) for initiating contempt proceeding on an allegation that State Bank of India has assigned the assets in question to Assets Reconstruction Company (India) Ltd. The said action was alleged as contemptuous action, however; a Bench of this Court, by its order dated 15-11-2016, had dismissed the contempt petition i.e. M.J.C. No. 662 of 2015. According to learned counsel for the State Bank of India, this Court has already taken notice of the fact regarding entrustment of the work to the Assets Reconstruction Company (India) Ltd.

In view of facts and circumstances, particularly the fact that allegation regarding entrustment or assigning of the work to Assets Reconstruction Company (India) Ltd. was earlier noticed by this Court and no error was found in the said action, there is no reason to refuse the prayer for modification of the aforesaid orders.

Accordingly, since the order dated 7th May, 2014 has already been merged with order dated 19th November, 2014, there is no reason to pass any order for modification of order dated 7th May, 2014. The purpose would be served if the order dated 19th November, 2014 is modified and as such, the order dated 19th November, 2014 is modified to the extent that in place of Committee headed by the State Bank of India, it is substituted as Assets Reconstruction Company (India) Ltd.



Both modification petitions are allowed and earlier order is modified to the extent, as indicated above.

(Rakesh Kumar, J.)

Anay

U			
---	--	--	--

