IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11911 of 2016

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1. Pratap Narayan Mishra son of Late Vishnudutta Mishra resident of Mohalla - Dakshin Darwaja Sisoriya Chouraha, P.O. - Chand Chaura, P.S. - Vishnupad and Distt. - Gaya.

.... Petitioner/s

Versus

1. The Chief General Manager, Punjab National Bank, Gaya.
2. The Zonal Manager, Punjab National Bank, Gaya.
3. The Branch Manager, Punjab National Bank, Gaya.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Anirudh Kumar Verma
For the Bank : Mr. Kumar Priya Ranjan

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 27-02-2017

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

In the present case, petitioner is challenging the outstanding dues of Rs.11,06,447/-.

Petitioner has taken housing loan of Rs.8,86,000/- on 19.5.2006. As per claim of the petitioner he has already deposited Rs.9,60,000/- against the loan amount still the Bank is asking to pay the aforesaid outstanding dues. Petitioner is challenging the calculation of the Bank and submitted that Bank has wrongly arrived to the aforesaid amount when petitioner has been paying the amount time to time regularly.

Petitioner has earlier moved this Court vide C.W.J.C.

No.21459 of 2014 against the notice 14.8.2014 and the same was disposed of with observation that he is obliged to return the loan amount. The Bank has attached sheet has given details, Annexure-C elaborate manner the Bank has arrived to the aforesaid amount. As per petitioner Annexure-C of counter affidavit reflects the outstanding amount is Rs.7,00,000/- whereas claim has been made for Rs.11,06,447/-.

This issue cannot be gone into by this Court in the present proceeding as there is determined forum for adjudication of such nature of dispute before the Debt Recovery Tribunal under Section 17 of the SARFAESI Act. It is to be taken into consideration that petitioner had approached this Court before issuance of notice under Section 13(2) of SARFAESI Act.

In such view of the matter, this matter is relegated to the Tribunal. If the petitioner files application before the Tribunal within four weeks from today, the Tribunal will be obliged to decide the same on its own merit after giving due notices to the parties and after giving proper hearing by a reasoned order,.

In the meantime, petitioner will not be evicted from the house but if he fails to obtain interim order within six weeks from the Tribunal the 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	2.3.2017
Transmission Date	NA