

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15359 of 2017

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1. M/s Saroj Ranjan Foods Pvt. Ltd. having its registered office at 108, Addition Arcade, Frazer Road, Patna through its Director Sri Narsingh Yadav.
2. Narsingh Yadav, Son of Shivismurat Singh, Resident of Vill.- Bahuara, P.O.- Salthuaon, P.S.- Kudra, Distt.- Kaimur.

.... Petitioners

Versus

1. The Punjab National Bank through its Zonal Manager, Patna Zone, R-Block, Chanakya Tower, Patna- 800001.
2. The Circle Head, Punjab National Bank, Ara Circle, 2nd Floor, Hotel Regal Complex, East Ramana Maidan Road, Ara- 802301.
3. The Senior Manager, Credit Section Punjab National Bank, Ara Circle, 2nd Floor, Hotel Regal Complex, East Ramana Maidan Road, Ara- 802301.
4. The Chief Manager, Punjab National Bank, Branch- Akorhi, P.O.- Mohania, Distt.- Kaimur.

.... Respondents

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Appearance :

For the Petitioners : Mr. Ashok Kumar Choudhary
Mr. Anil Kumar Tiwary, Advocates.
For the Respondents : Mr. Kumar Priya Ranjan
Mr. Niraj Kumar, Advocates.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 24-01-2018

I.A. No. 9475 of 2017

This interlocutory application has been filed for adding the following prayers in the writ petition.

“ To append the following sub-paragraph (e) and (f) to paragraph 1 in the main writ application:

(v) To quash the e-auction notices published in leading dailies on 20.12.2017 for auction sale of all the three collateral security given by the petitioners while obtaining loan from the respondent Bank.

(vi) For a direction upon the respondent Bank to not to act



upon the e-auction notices published in leading dailies on 20.12.2017 for auction sale of all the three collateral security given by the petitioners while obtaining loan from the respondent Bank during the pendency of the present writ application.”

2. Having regard to the nature of the prayer, I.A. No. 9475 of 2017 is allowed and the petitioner is permitted to make appropriate amendment in the writ petition in course of the day which form part of the main writ petition.

C.W.J.C. No. 15359 of 2017

3. The main writ petition has been filed for the following reliefs:

“(a) To quash the Possession Notice under Section 13(4) of the SARFAESI Act dated 11.05.2017 issued by the Respondent Bank as the same was issued in violation of the mandatory provisions of the SARFAESI Act, regarding the said impugned order illegal, unfair and arbitrary.

(b) For a direction upon the respondent Bank to restructure the loan of the petitioner Company and enhancing the cash credit limit extended to the petitioner Company after considering the proposal of the petitioner Company.

(c) For a direction upon the Respondents not to give effect to the Possession Notice under Section 13(4) of the SARFAESI Act dated 11.05.2017 issued by the Respondent Bank and stay further proceeding under Section 13(4) of the SARFAESI Act against the petitioner during the pendency of the present writ application.

(d) To pass any other order/orders in shape of a



consequential relief to which the petitioner may be found to be legally entitled to in the facts and circumstances of the instant case at hand."

4. This matter has been listed out of turn on the request of the petitioner on the ground that the rice mill as well as residential house and the appertaining land of the petitioner has been put on auction which was to be held at Noon today i.e. on 24.01.2018.

5. At the very outset, learned counsel for the respondent Bank makes a statement at the Bar on instruction that the auction which was to be held at Noon today i.e. on 24.01.2018 has failed as no bidder has turned up.

6. In view of the above statement on behalf of the Bank, there is clearly no urgency of taking up the matter out of turn.

7. This Court also takes note that the petitioner has statutory remedy available by way of appeal under Section 17 of the SARFAESI Act, which has not been availed of.

8. Apart from the remedy by way of statutory appeal, learned counsel for the petitioner submits that the petitioner is willing to liquidate the entire outstanding dues and would approach the Bank with a proposal in this regard for consideration of the respondent Bank on its own merit.

9. In this view of the matter, this Court is not inclined to enter upon the merits of the matter.



10. The writ petition stands disposed of with liberty to the petitioner to approach the appellate forum for redressal of his grievances. In case any such appeal is filed within a period of 30 days from today the same shall be considered and disposed of on its own merits in accordance with law.

11. It is made clear that in case such an appeal is filed, the concerned authority would have regard to the present proceeding being pursued by the petitioner while considering any issue relating to condonation of delay, if applicable.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.01.2018
Transmission Date	N.A.

