

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15495 of 2012

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M/s Mandal Plastic Industries, a registered Partnership Firm through one of their, Partner Ajay Kumar S/O Late Deo Prasad Mandal, at Janipur, P.S Phulwarisharif (Now Janipur) District - Patna

.... Petitioner

Versus

1. The Bihar State Financial Corporation Through Its Chairman, -Cum-Managing Director, Fraser Road, P.S. Kotwali, Town And Distt - Patna
2. The Chairman-Cum-Managing Director, Bihar State Financial Corporation, Fraser Road, P.S. Kotwali Town And District - Patna
3. The Specified Authority-Cum-Managing Director, Bihar State Financial Corporation, Fraser Road, P.S. Kotwali, Town And District - Patna
4. The Branch Manager, Bihar State Financial Corporation Patna
5. Dharmendra Kumar Son Of Late Dwarika Prasad South Chandmari Road, Near Pani Tanki, Road No. 2, Patna - 20

.... Respondents

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Appearance :

For the Petitioner : Mr. Anil Jayaswal, Advocate.
For the Respondents : Mr. Raju Giri, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

II Date: 13-08-2018

The main writ petition has been filed for the following
reliefs –

- “1(a) A writ of mandamus or any other appropriate writ, order or direction to respondent no. 3 to decide case No. 14 of 2002 filed before it by respondent Corporation against this petitioner U/s 32(G) of the State Financial Corporations Act, 1951 BSFC Versus Mandal Plastic in which despite final argument on 25.09.2008 (that is, four years ago) final order has not been passed as yet, on the point of ‘amount due’ to the respondent-Corporation by this petitioner and,*
- 1(b) For issuance of an appropriate writ, order or direction*



to quash the auction sale advertisement dated 05.02.2012 (vide Annexure-3) issued by Respondent no. 2, and, 1(c) For the issuance of an appropriate writ, order or direction to quash the orders as contained in Annexure-6 and 7 dated 29.03.2012 and 03.08.2012 respectively issued by respondent no. 2 as well as the Sale-Deed executed by respondent no. 4 in favour of respondent no. 5 some times in between the issuance of Annexure-5 and 6 (its exact date is not being stated and the sale-deed is not being annexed as its copy has not been furnished to the petitioner)."

I.A. No. 7807 of 2012

2. This interlocutory application has been filed for amendment of the writ petition by adding prayer no. 1(d) as follows-

"1(d) For issuance of an appropriate writ, order or direction to respondents to hand over the physical possession of the unit in question back to the petitioner after adjudication of this writ petition."

I.A. No. 4926 of 2018

3. This interlocutory application has been filed for substituting prayer no. 1(a) of the writ petition with the following prayer-

"2(A) The substituted new para no. 1(a) is as "1(a) That an appropriate writ, order or direction be issued in this petition to quash the entire proceeding U/s 32G of the State Financial Corporations Act, 1951 in Case No. 14 of 2002 Bihar State Financial Corporation Vs. M/s Mandal Plastics



which is pending only for its final orders since 25.09.2008 (when final argument was completed in it, that is, by now, about ten years ago, for respondent no. 3".

4. Having regard to the nature of the prayer, both the interlocutory applications are allowed and the same shall be treated as forming part of the writ petition.

C.W.J.C. No. 15495 of 2012

5. Having heard the parties at some length, this Court is of the view that it is not necessary to enter into the detailed merits of the matter in view of subsequent developments.

6. Learned counsel for the respondent-Corporation at the outset itself invites attention to paragraph-7 of the supplementary counter affidavit stating as follows-

"That it is stated that due to failure of the Purchaser Sri Dharmendra Kumar in paying dues of the Corporation, the Corporation has decided to sell the assets for which proposal to advertise the assets at reserve price has been approved by the CMD and accordingly details have been sent to the Coordination Section for taking steps for advertisement."

7. Learned counsel for the respondent-Corporation stated that the petitioner has incorrectly understood that a sale deed has been executed in favour of the auction purchaser and sought its quashing, as the auction sale has failed. Learned counsel further states



on instruction that in view of the failure of the auction sale, the Corporation now proposes to proceed afresh under Section 29 of the State Financial Corporations Act, 1951 (hereinafter referred to as 'the Act') by issuing a fresh advertisement for auction sale of the property. It is therefore submitted that there is no occasion at this stage to proceed with Case No. 14 of 2002 pending before the specified authority under Section 32(G) of the Act for issuance of certificate of recovery.

8. Having regard to the stand of the respondent-Corporation, the proceeding under Section 32(G) of the Act, validity of which has been challenged by the petitioner on grounds of the inordinate period of its pendency, is hereby quashed, with liberty to the Corporation to institute fresh proceeding under Section 32(G) of the Act as and when the occasion so arises. Prayer No. 1(a) as substituted by I.A. No. 4926 of 2018 stands allowed as above.

9. Considering the stand of the respondent that the auction sale has failed, the prayer no. 1(b) and 1(c) has become infructuous and is accordingly rejected.

10. As regards prayer no. 1(d) added through I.A. No. 7807 of 2012, the petitioner shall be at liberty to approach the respondent Corporation with a representation for settling its dues in order that the physical possession of the unit may be restored to the



petitioner. The Corporation shall furnish the statement of account up-to-date to the petitioner and any other details as the petitioner may reasonably require, without undue delay.

11. It is made clear that the petitioner shall be at liberty to raise all points in the representation, in which event the representation shall be disposed of by a speaking order after grant of opportunity of hearing to the petitioner in accordance with law.

12. The writ petition stands disposed.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.08.2018
Transmission Date	N.A.

