

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18791 of 2017

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Geeta Devi @ Geeta Kumari Wife of Ajay Krishna Dwivedi Resident of 144,
Thana Gali, Bandhan Tola, Post Office-Ara, Police Station- Ara Nawada, District-
Bhojpur.

.... Petitioner

Versus

1. The Zonal Manager, Bank of Baroda, Patna, Bihar.
2. The Regional Manager, Bank of Baroda, Patna, Bihar
3. The Chief Manager, Bank of Baroda, Katira More, Ara, District- Bhojpur.
4. The Authorised Officer, Bank of Baroda, Katira Road, Ara, District- Bhojpur.
5. Mr. Arvind Kumar Pathak Resident of H. No. 125 , Mohalla - Jamira, Post Office- Jamira, Ara, District Bhojpur.
6. Mr. Mani Bhushan Pathak Son of late Chandra Kant Pathak Resident of H.No. 187, Mohalla- Birampur, Post Office- Birampur, Police Station- Koelwar , District- Bhojpur.
7. Mr. Ajay Krishna Dwivedi, Resident of H. No. 114, Mohalla -Thana Gali, Bandhan Tola, Post Office- Ara, Police Station- Ara Nawada, District- Bhojpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha, Advocate

For the Respondent/s : Mr. Satish Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-01-2018

The present writ petition has been filed for the following
reliefs:-

- (i) For a direction to the respondent-Bank to follow the Rules and procedures of SARFAESI Act, 2002 before exercising the power under Section 13(4) of the Act.
- (ii) For a direction to the respondents to settle the matter immediately on *bona fide* principal



amount.

(iii) For stay the operation of the impugned notice dated 16.10.2017 (Annexure-1) by the respondent no. 3 during the pendency of this writ application.

(iv) For any other relief/reliefs to which the petitioner is found to be entitled in the facts and circumstances of the case.

2. Learned counsel for the petitioner submits that despite the petitioner having approached the bank on an earlier occasion for settling the outstanding amount and in respect of which a written representation dated 12.07.2016 (Annexure-3) has also been filed, the bank is threatening to auction the property without disposing of the petitioner's representation. A further representation dated 04.12.2017 has also been sent by registered post on 05.12.2017, but the same also remains pending. The bank is however, threatening to proceed with the recovery proceeding by auction of the subject property.

3. Learned counsel for the respondent-bank appears and has been heard.

4. Having regard to the nature of the grievance of the petitioner, this Court directs, in the interest of justice, that the respondent-bank shall consider and dispose of the representation of the petitioner referred to above, if still pending, after grant of opportunity of hearing to the petitioner in accordance with law. There appears little reason for the Bank to proceed in the matter if the petitioner has expressed her willingness to pay the amount outstanding against her and further



undertakes to pay the principal amount of the loans within a period of four weeks from today.

5. In the above view of the matter, the petitioner is granted liberty to approach the respondent-bank and furnish a proposal for making payment of the entire outstanding dues within a period of two weeks from today. The respondent-bank shall consider the petitioner’s representation, if still pending, as well as the proposal for clearing the outstanding dues having regard to the petitioner’s undertaking to make payment of the principal amount of the loans within a period of four weeks hereof and fix instalments for payments by the petitioner.

6. In the meantime, the respondent-bank shall refrain from taking any coercive action against the petitioner for recovery of the outstanding amount. It is made clear that in case the petitioner fails to make payment of any of the instalments within time as may be fixed by the respondent-bank, the respondent-bank shall be at liberty to proceed for recovery of its dues in accordance with law.

7. The writ petition stands disposed of as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.01.2018
Transmission Date	NA

