**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.2924 of 2019**

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M/s Roy Trading Company through its Sole Proprietor Mr. Manoj Kumar Roy @ Manoj Kumar, aged about 42 years, Male, son of Late Satyanarayan Roy, Resident of Mohalla-Bahadurpur, Ward No.25, PO-Samastipur, District-Samastipur-848101, Bihar.

... ... Petitioner/s

Versus

1.Union Bank Of India through its Senior Manager, Samastipur Branch, District-Samastipur, Bihar.
2.State of Bihar, through Principal Secretary, Department of Finance, Patna, Bihar.
3.Registrar, Debt Recovery Tribunal, Patna, Bihar.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Madhuri Kumari, Adv. |
| For the Respondent/s | : | Mr.Anuj Kumar,AC to GP 24. |
| For the Bank | : | Sri. Nishinath Ojha, Adv. |

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL ORDER

2 27-03-2019 Heard learned counsel for the petitioner and learned counsel representing the Bank.

Petitioner in the present case is seeking the following reliefs:-

> *"I. For issuance of writ of mandamus or any other appropriate writ directing the Respondent No.1 to honour the terms of the One Time Settlement proposal made by Petitioner vide letter dated 09.02.2018 & 21.02.2018 and acceptance vide letter dated 08.03.2018 with respect to loan account no.373805040001164 and close the account;*
>
> *II. For issuance of writ of mandamus directing the respondent no.3 to stay the recovery*

*proceedings pending, vide RP No.58 of 2017 entitled as Union Bank of India versues M/s Roy Trading Company & Others, before the Ld. Recovery Officer, Debt Recovery Tribunal, Patna;*

*III. For issuance of writ of mandamus or any other appropriate writ granting stay against taking possession of the immovable and movable assets of the petitioner during the pendency of the present petitioner;*

*IV. For any other relief as deemed fit by this honourable Court."*

Learned counsel for the petitioner submits that no doubt there is a certificate for recovery of Rs.80,46,098.40/- together with pendentelite and future interest at the rate of 10% Per Annum, simple from 09.12.2016 till realization of the entire sum due and recoverable with costs vide the certificate of recovery issued by the Debts Recovery Tribunal in exercise of its power under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the fact is that after issuance of certificate of recovery, this petitioner had submitted an offer whereunder he had agreed to pay a sum of Rs.35,00,000/- towards full and final settlement of the amount and the same was accepted by the Bank vide Letter dated 08.03.2018 issued under the signature of the Branch Manager as contained in Annexure 'P/6' to the writ application. Learned counsel submits that in terms of Annexure 'P/6' the petitioner had deposited a sum of Rs.9.51 Lakhs for release of the land in question, therefore, the Bank having accepted the offer of the petitioner, at this stage, cannot taken a 'u-turn' and call upon the petitioner to pay the entire certificate amount in the recovery proceeding.

On the other hand, learned counsel for the Bank has contested the submission of the petitioner by submitting that at no point of time the Bank has entered into any settlement with the petitioner. It is submitted that on a bare perusal of the request of the petitioner as contained in his letter dated 21.02.2018 (Annexure 'P/5') it would appear that by the said letter he had expressed his desire to enter into 'One Time Settlement' and for that reason he had requested the Bank to allow him to sale 10 Dhoors of land from which he was expecting a sum of Rs.10,00,000/-. He had undertaken to deposit the said amount of Rs.10,00,000/- if the permission is granted by the Bank. It is submitted that in view of the request as contained in Annexure 'P/5', the competent authority of the Bank decided to release the said portion of the land from mortgage subject to deposit of a sum of Rs.9.51 Lakhs. It is submitted that Annexure 'P/6' cannot be taken as an acceptance of the offer of the petitioner to settle the account on payment of

Rs.35,00,000/- only. It is submitted that Rs.35,00,000/- could not have been accepted in terms of recovery policy of the Bank that to when the certificate is for a much more amount and the Bank has got assets under mortgage to recover the said amount. It is submitted that from Annexure 'P/8' which is a letter dated 16.10.2018 written by the Authorized Officer of the Bank to the petitioner, it would appear that the claim of the petitioner that bank entered into a settlement was emphatically denied.

Apart from the aforesaid submissions, learned counsel for the Bank has also submitted that in case the petitioner wants to settle the account, he could have made an appropriate application in the recovery proceeding itself. It is submitted that, in any view of the matter, this Court sitting under Article 226 of the Constitution of India would not be an appropriate Court to take upon itself issue of settlement *de hors* to the settled procedures laid down under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

Having heard learned counsel for the parties and on perusal of the records, this Court finds substance in the submission of learned counsel for the Bank. perusal of Annexures 'P/5', 'P/6' and 'P/7' only indicate that at the relevant point of time the Bank had agreed to release the portion of the mortgaged land subject to the condition that the petitioner will deposit a sum of Rs.9.51 Lakhs. The Bank has emphatically denied the claim of the petitioner vide Annexure ‘P/8’ to the writ application saying that at no point of time the Bank had entered into any settlement as offered by the petitioner. This Court also agree with the submission of the learned counsel for the Bank that sitting in its writ jurisdiction this Court would not be taking upon itself an act whereunder the parties may be called upon to settle the disputes. Remedy is available to the petitioner in the recovery proceeding.

This writ application has no merit. It is, accordingly, dismissed.

**(Rajeev Ranjan Prasad, J)**

R.R.Ojha/-

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