IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21583 of 2019

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Pramod Kumar Managing partner, M/s Prabha Cold Storage (Mohalla-Brahmpura , Laxmi Chowk, Muzaffarpur), S/o Nagendra Sah, Resident of Ward No. 2, Krishna Toli, Laxmi Chowk, Brahmpura, Near Brij Bihari Prasad House, MIT, P.S. Brahmpura, District- Muzaffarpur.

... ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Govt. of Bihar, Patna.
2. The District Magistrate, Muzaffarpur, Bihar.
3. The Central Bank of India through the Chairman and Managing Director, Central Bank of India, Chandramukhi, Nariman Point, Mumbai, Maharashtra.
4. The Chairman and Managing Director, Central Bank of India, Chandramukhi, Nariman Point, Mumbai, Maharashtra.
5. The General Manager, Central Bank of India, Muzaffarpur, Patna.
6. The Zonal Manager, Central Bank of India, Maurya Lok, Patna,Bihar.
7. The Regional Manager, Central Bank of India, Maurya Lok, Patna,Bihar.
8. The Senior Branch-Cum- Branch Manager, Central bank of India, Sahupokhar Branch, Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vikas Ratan Bharti, Advocate
		Mr. Indrajesh Kumar, Advocate
For the Bank	:	Mr. Ajay Kumar Sinha, Advocate
For the Respondent/s	:	Mr.Manish Kumar (Gp4)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 25-10-2019 Heard learned counsel for the petitioner and learned counsel representing the Bank.

In view of the submissions made at the Bar, learned counsel for the parties are in agreement that the writ application may be disposed of at this stage in terms of the submissions made on behalf of the parties.

Learned counsel for the petitioner submits that pursuant to the order passed by this Court earlier in C.W.J.C. No. 636 of 2019, the petitioner had moved before the Debts Recovery Tribunal, Patna (hereinafter referred to as 'the Tribunal') in S.A. No. 25 of 2019. On 09.04.2019, after considering the rival contentions of the parties, the learned Presiding officer of the Tribunal had been pleased to pass the following order:

> "Ld. Counsel Sh. Indrajesh Kumar along with Sh. C.S.P. Sinha is present on behalf of applicant.
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> Ld. Counsel Sh. Nilanjan Chatarjee is present on behalf of respondent bank and filed reply of IAs and supplied the copy to the ld. Counsel S. applicant.
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> It is submitted by the ld. Counsel S. applicant that the S. applicant is willing to settle the matter and as a bonafide, he has handed over a Demand Draft No. 911739 dated 08.04.2019 of Rs. 68 lacs and a cheque bearing no. 906752 dated 09.04.2019 of Rs. 7 lacs to the ld. Counsel Sh. Nilanjan Chatarjee and request is made that cheque may be deposited by the respondent bank on 12.04.2019 and further requested that the bank may be directed to reopen the dwelling house as the S. applicant as well as his 06 members of family are residing on the road and all the necessary articles are lying in the dwelling house.
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> Ld. Counsel of the respondent bank submits that in the matter no bidder has turned up, therefore, e-auction sale fixed on 10.04.2019 become infructuous. It is further submitted that the bank is not ready to settle the matter with the applicant unless entire amount is deposited and request is made the dwelling house may not be directed to reopen.

> Considered the rival contentions of the parties. Since, the applicant has handed over DD/cheques of Rs. 75 lacs as mentioned above to the respondent bank, therefore, in the interest of justice, it would be appropriate that the dwelling house may be reopened. Accordingly, the bank is directed to reopen/unlock the dwelling house of applicant on 12.04.2019. It is also made clear that if the above mentioned cheque of Rs. 7 lacs is bounced, the bank shall not reopen/unlock the dwelling house of applicant. It is also directed to the respondent bank that the amount of above mentioned DD and cheques shall be realised as principal amount in the account of borrowers. Respondent bank is also directed to deposit the cheque of Rs. 7 lacs for realisation on 12.04.2019.
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> Adjourn on 25.04.2019 for arguments."

Learned counsel submits that unfortunately the cheque bearing no. 906752 dated 09.04.2019 for Rs. 7 lakhs stood dishonoured on presentation as a result whereof the total amount of Rs. 75 lakhs which was required to be deposited as a condition precedence for opening of the lock could not be made available to the Bank within the stipulated period. Learned counsel submits that at this stage the petitioner has arranged the amount required to make it a total deposit of Rs. 75 lacs and is ready to pay the same by way of a demand draft bearing no.912423 dated 14.10.2019 drawn from State Bank of India in favour of the respondent bank.

Learned counsel for the petitioner submits that for the present the Court may direct the Bank to open the lock of the dwelling house of the petitioner as 06 members of the family of the petitioner are on road and are some how spending their time in the garage.

Learned counsel submits that in terms of his statement made in paragraph 13 of the writ application, the petitioner has requested the Bank authorities to grant installments to enable him to pay back the loan amount and he is ready to pay the bank loan amount.

Learned counsel for the Bank submits that since the order dated 09.04.2019 has been passed by the Tribunal, the petitioner could have sought modification thereof before the Tribunal itself. It is further submitted that the Bank is not opposed to opening of lock on deposit of Rs. 75 lacs by the petitioner but at the same time this cannot be treated as a final amount to be paid by the petitioner for a permanent kind of relief. Learned counsel submits that the petitioner would be required to deposit the entire outstanding amount which the Bank is entitled to recover from the petitioner in terms of its recovery policy. Referring to paragraph 13 in which the statement has been made by the petitioner that he is ready to pay the amount in installment, learned counsel for the Bank submits that the competent authority of the Bank shall inform the petitioner about the decision with regard to the total outstanding amount which the petitioner would be liable to pay in terms of the recovery policy of the bank and within the stipulated period and the installment if any possible. Such communication will be made to the petitioner within a period of 30 days from today and thereafter, the petitioner would be obliged to pay the outstanding amount within the stipulated period.

In the given facts and circumstances of the case and in view of the submissions made at the Bar, considering that in view of ensuing festival it would not be just and proper to relegate the petitioner to the Tribunal, in the kind of necessity, this Court directs that learned counsel for the petitioner should hand over the demand draft of Rs. 7 lacs to learned counsel for the Bank forthwith and learned counsel for the Bank shall inform the competent authority/authorised officer of the Bank immediately to open the lock of the residential premises of the petitioner and hand over the possession thereof subject to the condition that the petitioner will abide by his undertaking given in paragraph 13 of the writ application. The competent authority/authorised officer of the Bank shall inform the petitioner about the total outstanding amount which the petitioner would be liable to pay after adjustment of Rs. 75 lacs which has been paid by the petitioner for the time being and shall also inform the time frame within which the amount is required to be paid. This Court would only observe that if in terms of the recovery policy, the Bank may grant some installment to the petitioner, the same should be allowed.

In view of the ensuing festival of the Diwali and Chatt which is going to commence from today itself, the authorised officer of the Bank is directed to act forthwith and open the lock without any delay. This writ application is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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