IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7006 of 2020

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Ram Nandan Prasad @ Ramnandan Kumar, Son of Late Rajesh Nandan Prasad, Resident of Flat No. A-43, Ganga Mahal, J.C. Road, P.S.- Pirbahore, District- Patna.

... ... Petitioner/s

Versus

1. The Union Bank of India through Kewal Handa, Chairman and Part-Time Non Official Director, having their place of seating at Union Bank Bhavan, 239, Vidhan Bhavan Marg, Nariman Point, Mumbai- 400021.
2. The Managing Director and CEO of Union Bank of India, through Rajkiran Rai G., having their place of seating at Union Bank Bhavan, 239, Vidhan Bhavan Marg, Nariman Point, Mumbai- 400021.
3. The Executive Director of the Union Bank of India, through Gopal Singh Gusain, having their place of seating at Union Bank Bhavan, 239, Vidhan Bhavan Marg, Nariman Point, Mumbai- 400021.
4. Madnesh Kumar Mishra, the Government Nominee Director of the Union Bank of India, having their place of seating at Union Bank Bhavan, 239, Vidhan Bhavan Marg, Nariman Point, Mumbai- 400021.
5. The Regional Manager, Patna Region-2, Union Bank of India, First Floor, Aditya Arcade, Exhibition Road, P.S.- Gandhi Maidan, District- Patna.
6. The Chief Manager and Authorized Officer, erstwhile Andhra Bank now Union Bank of India, Patliputra Branch, at Ground Floor, Ramayan Plaza, Opposite Gumti No.32, Rajapur Pul, P.S.- Buddha Colony, District- Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Ansul
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 09-07-2020 Heard learned counsel for the petitioner, Bank and respondent no.6.

The petitioner has filed the present writ application for the following reliefs:

"(i) To consider the case of the petitioner and direct the respondents to hold him eligible under RBI Scheme declared vide Notification No. RBI/2019-20/244 as contained in DOR. No. BP. BC. 71/21.04.048/2019-20 dated 23.05.2020 and

Notification No. RBI/2019-20/186 as contained in DOR. No. BP. BC. 47/21.04.048/2019-20 dated 27.03.2020, extending moratorium for 6 months, starting from March till August, 2020, applicable on instalment of term loans including, but not limited to, home loans to the borrowers.

(ii) To direct the respondent authorities to extend the benefit of the said moratorium scheme of six months as declared by the RBI, ending in August to the petitioner.

(iii) To stay the auction of the petitioner's Flat, through E-Auction and direct the respondent authorities to accept the payment of due amount along with interest from the petitioner, to settle the said defaulted loan."

Mr. Ansul, learned counsel for the petitioner submits that the Bank is inclined to put the house (Flat) of the petitioner on auction notwithstanding extending the moratorium period during lock down period of Covid-19. He submits that the petitioner is covered by the RBI's Covid-19 regulatory package, issued by Notification No. RBI/2019-20/244 as contained in DOR. No. BP. BC. 71/21.04.048/2019-20 dated 23.05.2020 and Notification No. RBI/2019-20/186 as contained in DOR. No. BP. BC. 47/21.04.048/2019-20 dated 27.03.2020. He further submits that the petitioner is ready to pay the entire dues of approximately Rs.20 lakhs within a reasonable time.

Counsel for the Bank submits that the petitioner has an alternative remedy. He further submits that the petitioner has not approached the Bank for fixation of installments.

Considering the totality of the facts situation, the Court is inclined to grant indulgence to the petitioner for the time being with a direction to the petitioner to avail the alternative remedy under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (in short ‘the SARFAESI Act’).

Accordingly, the writ application is disposed of.

The petitioner may approach the alternative forum and at the same time, the petitioner may approach the Bank with proposal for payment of entire dues and on submitting such proposal, the Bank will take appropriate decision, in addition to the remedy, which is available before the alternative forum under the scheme of SARFAESI Act.

In order to facilitate the petitioner to avail the alternative remedy in the present case, the Court stays any action of auction of the property of the petitioner until adjudication of the dispute amicably or finally by the Bank or the alternative forum.

(Anil Kumar Upadhyay, J)

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