

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18617 of 2021

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Gangotri Iron and Steel Co. Ltd. a registered Company having its registered Office at 307, Ashiana Tower, Exhibition Road, Patna through one of its Directors namely Sanjiv Kumar Choudhary Male aged About 58 Years Son of Shew Bhagwan Choudhary resident of Seventh Floor, Kataruka Niwas, Above HSBC Bank South Gandhi Maidan, Patna-800001.

... .. Petitioner/s

Versus

1. The State Bank of India through the Chairman-Cum-Managing Director, State Bank of India, Corporate Centre, State Bank Bhawan, Madame Cama Road, Mumbai-400021.
2. The Stressed Assets Management Branch having its Office at, State Bank of India, Fifth Floor, Zonal Office, Judges Court Road, Patna-800001 through its Assistant General Manager.
3. The Authorised Officer, The Stressed Assets Management Branch having its Office at, State Bank of India, Fifth Floor, Zonal Office, Judges Court Road, Patna-800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Shri Gautam Kumar Kejriwal, Advocate
For the Respondent/s	:	Shri Chitranjan Sinha, Sr. Advocate
		Shri Sanjiv Kumar, Advocate
		Shri Prabhat Kumar Sharan, Advocate
		Shri Jayant Kumar Sharan, Advocate
		Shri Hemant Kumar Sharan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-12-2021

The petitioner has prayed for the following relief/s :-



- (i) For issuance of a writ or order a direction restraining the respondents and any other person from executing and from taking any action in furtherance to the auction sale notice dated 31.08.2021 served upon the petitioner through a letter bearing reference number SAMB/CLO -III/MK/180 dated 31.08.2021 whereby the assets of the petitioner have been put on auction sale on 18.10.2021 at 12 PM in light of the pendency of an application filed by the petitioner under section 17 of The Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 (hereinafter referred to as the "act 2002" for short) before learned DRT Patna;
- (ii) For issuance of a writ or order a direction granting the relief of ad interim status quo ante in favour of the petitioner in case the respondents would proceed or have proceeded with auction of the assets of the petitioner in light of the auction sale notice dated 31.08.2021 served upon the petitioner through a letter bearing reference number SAMB/CLO -III/MK/180 dated 31.08.2021;
- (iii) For further holding and a declaration that the respondents cannot proceed against the petitioner till the application filed by the petitioner under section 17 of the act 2002 is pending before learned DRT Patna and the same is heard and disposed of in accordance with law;
- (iv) For further holding and a declaration that keeping in view the present circumstances wherein the bench of learned DRT Patna is not presided by any presiding officer whether permanent or in-charge, the petitioner's case cannot be taken up for hearing even on point of grant of interim relief and therefore the petitioner cannot be rendered remedy less;
- (v) For further holding and a declaration that the right to legal remedy is one of the constitutional right of the petitioner and therefore in a situation in hand which is exceptional in nature, the respondents cannot proceed against the petitioner till the petitioner gets an opportunity to avail appropriate statutory remedy before learned DRT Patna upon availability of a presiding officer;
- (vi) For any other reliefs to which the petitioner is found entitled to in the facts and circumstances of this case,



After the matter was heard for some time, Shri Gautam Kumar Kejriwal, learned counsel for the petitioner, under instructions from the petitioner, has made the following submissions :-

a) Petitioner shall, within next three working days, deposit a sum of Rs.79,10,000/- with the respondent bank, in turn to be paid to the auction purchaser;

b) Such deposit shall be without prejudice to the respective rights and contentions of the parties;

c) Petitioner shall again approach the Bank for One Time Settlement and in the event of the bank accepting the petitioner's proposal, the said sum of Rs.79,10,000/- shall be adjusted towards the payment to be made in terms thereof;

d) Should the settlement not fructify, it shall be open for the parties to take recourse to such remedies as are otherwise available in accordance with law; and

e) Proposal to be made shall be independent of and without prejudice to the pendency of the proceedings before different forums.

Shri Chitranjan Sinha, learned senior counsel for the respondent points out that there is yet another property (movable property) amounting to Rs. 2,08,00,000/- which



stands auction sold and the bank would not be precluded from taking steps in finalizing such sale transaction.

At this stage, Shri Kejriwal clarifies that in view of the interim protection granted by the appropriate forum, such sale transaction cannot be completed.

Learned counsel appearing on behalf of the respondent bank states that within two working days, following the date of receipt of payment from the petitioner, the amount would be remitted to the auction purchaser.

Shri Kejriwal further states that the proposal shall be submitted with the bank within two weeks.

Petitioner through Shri Kejriwal undertakes to repay the amount on such terms as may be fixed by the respondent bank.

Statements are accepted and taken on record.

The petition is disposed of in the following mutually agreeable terms :-

a) Petitioner shall, within next three working days, deposit a sum of Rs.79,10,000/- with the respondent bank, in turn to be paid to the auction purchaser;

b) Such deposit shall be without prejudice to the respective rights and contentions of the parties;



c) Petitioner shall again approach the Bank for One Time Settlement and in the event of the bank accepting the petitioner's proposal, the said sum of Rs.79,10,000/- shall be adjusted towards the payment to be made in terms thereof;

d) Should the settlement not fructify, it shall be open for the parties to take recourse to such remedies as are otherwise available in accordance with law; and

e) Proposal to be made shall be independent of and without prejudice to the pendency of the proceedings before different forums.

f) Liberty reserved to the parties to revive the petition at any stage; and

g) Till the time a decision is taken on the proposal for settlement, no coercive action shall be taken against the petitioner.

The petition stands disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	17.12.2021
Transmission Date	

