

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20454 of 2021

1. M/s Prema Jewels through one of its Co-borrower Shri Saurav Kumar aged about 31 Years, Male , S/o Late Sanjay Kumar, R/o Shop no. 55, Lok Nayak Jay Prakash Bhawan, dak Bunglow Chauraha, P.S.-Kotwali, Patna-800001 having its Place of business at Shop No. G-13, P and m Mall, Patliptura, Patna.
2. Saurav Kumar, S/o Late Sanjay Kumar legal Heirs of Late sanjay Kumar R/o Shop No. 54,55, Lok Nayak Jay Prakash Bhawan, Dak Bunglow Chauraha, Patna-800001.
3. Gaurav Kumar, S/o Late Sanjay Kumar legal Heirs of Late sanjay Kumar R/o Shop No. 54,55, Lok Nayak Jay Prakash Bhawan, Dak Bunglow Chauraha, Patna-800001.
4. Mrs. Renu Verma, W/o Late Sanjay Kumar legal Heirs of Late sanjay Kumar R/o Shop No. 54,55, Lok Nayak Jay Prakash Bhawan, Dak Bunglow Chauraha, Patna-800001.
5. Miss Saloni Verma, D/o Late Sanjay Kumar legal Heirs of Late sanjay Kumar R/o Shop No. 54,55, Lok Nayak Jay Prakash Bhawan, Dak Bunglow Chauraha, Patna-800001.

... .. Petitioner/s

Versus

1. Assistant General Manager State Bank of India, Stressed Assets Management Branch, 5th Floor, Zonal Office Building, Judge Court Road, Antaghat, Patna.
2. Recovery Officer, Debt Recovery Tribunal, Patna, Wings A,B 2nd Floor, Karpuri Thakur Sadan, Ashiana Digha Road, Patna- 800025.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Jha, Advocate
For the Respondent/s	:	Mr. Sanjiv Kumar, Advocate
Fro the Bank	:	Mr. Santosh Kumar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-12-2021

Heard learned counsel for the parties.

The petitioners have prayed for the following

relief/s :-



“for declaring the recovery proceeding before respondent no.2 in RP 776 of 2018 [State Bank of India, SAMB Vs. M/s Prema Jewells & Ors.] for realization of Rs.3,10,08,252.27 from Sale of Properties of Late Sanjay Kumar is contrary to section 135 of Contract Act, 1872 which discharge the guarantee since the creditor respondent bank compounds with the principal debtor petitioner no.1 and the guarantee comes to an end by death of Sanjay Kumar.

That the petitioners further seeks declaration from this Hon’ble Court that the entire recovery proceeding including order dt. 08.10.2021 is void in view of satisfaction of certificate amount in terms of SBI OTS 2020 dt. 17.10.2020 and the acceptance of Rs.1,14,36,526.20/- as full and final payment against all outstanding dues.

The petitioner further prays for issuance of any appropriate writ/writs, order/orders and/or direction/directions for which petitioner may be found entitled.”

After the matter was heard for some time, more so, in view of the objections raised by the respondents, with regard to the pendency of the proceedings under the provision of the Recovery of Debts and Bankruptcy Act, 1993, learned counsel seeks permission to withdraw the present petition reserving



liberty to approach the respondent authorities as also the Reserve Bank of India, pointing out his grievances arising out of the impugned action i.e. order dated 02nd of December, 2020.

We notice that proceedings for recovery of debts were initiated by the respondents and vide judgment dated 31st of October 2018, passed in O.A. Case No. 812 of 2016, the DRT allowed the application directing the petitioner to pay a sum of Rs. 3,10,08,252.27/-.

We also notice that prior thereto, the respondents had issued a proposal for One Time Settlement vide communication dated 13th of August, 2018 (Annexure-3), which was accepted by the petitioner, and confirmed by the respondent, vide communication dated 20th of October, 2020 (Annexure-5). However, vide impugned communication dated 2nd of December, 2020 (Annexure-7), the One Time Settlement stands withdrawn for the reason that the petitioners' account was declared fraud by the competent authority of the bank.

The instant writ petition stands disposed of as withdrawn with the liberty aforesaid.

We clarify that we have not expressed any opinion on the merits of the case and have left all the questions, including the issue of maintainability of the present petition,



open to be decided in an appropriate proceeding, should the need so arises subsequently.

As and when any request is made by the petitioners, we are sure that the appropriate authority shall consider and decide the same, in accordance with law, expeditiously and within a period of four weeks thereafter, of course, after complying with the principles of natural justice.

Status quo, as on date, for a period of three weeks shall be maintained and, after that period, the order of interim protection shall automatically stand vacated.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	16.12.2021
Transmission Date	

