

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.787 of 2022

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1. Shweta Singh, W/o Shri Manoj Kumar Chandel, Resident of Station Road, Near Ram Line Hotel, Satgama, Jamui and Lali Bhawan Compound Nehru Nagar, Patliputra Colony, Patna.
 2. Manoj Kumar Chandel, S/o Late Krishnanand Singh, Resident of Station Road, Near Ram Line Hotel, Satgama, Jamui and Lali Bhawan Compound Nehru Nagar, Patliputra Colony Patna.

... .. Petitioner/s

Versus

1. The State Bank of India through Assistant General Manager, Stress Assets Recovery Branch, State Bank of India, Local Head Office at West Gandhi Maidan, SARB, Patna Pin Code - 800001.
2. Chairman cum Managing Director, Head Office at Madama Cama Road, Mumbai, Pin Code - 400002.
3. The Assistant General Manager, Stress Assets Recovery Branch, State Bank of India, Local Head Office at West Gandhi Maidan, SARB, Patna Pin Code - 800001.
4. Authorized Officer, Stressed Assets Recovery Branch, (in short SARB), Patna, 2nd floor, Patna Main Branch Building, West Gandhi Maidan, Patna - 1.
5. The Regional Manager, State Bank of India, Regional Branch Office, at Munger.
6. The Chief Manager cum Branch Head, State Bank of India, Main Branch, Jamui.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 25655 of 2019

1. M/s Sarojini Enterprises through Smt. Shweta Singh (Proprietress) aged about 36 Years (F), W/o Shri Manoj Kumar Chandel, Resident of Station Road, Near Ram Line Hotel, Satgama, Jamui, at Present residing at Lali Bhawan Compound Nehru Nagar, P.S. Patliputra, Dist. Patna.
2. M/s Ritika Rice Mill through Smt. Shweta Singh (Proprietress) aged about 36 Years (F), W/o Shri Manoj Kumar Chandel, Resident of Station Road, Near Ram Line Hotel, Satgama, Jamui at Present residing at Lali Bhawan Compound Nehru Nagar, P.S. Patliputra, Dist. Patna.
3. Shweta Singh, D/o Dadan Prasad Singh Resident of MQ 45, Kathara Colony No.1, Budhiya South Near Hospital, P.S. Bokaro Thermal, Dist. Bokaro, Jharkhand, now W/o Shri Manoj Kumar Chandel Resident of Station Road, Near Ram Line Hotel, Satgama, Jamui, at Lali Bhawan Compound Nehru Nagar, P.S. Patliputra, Dist. Patna



4. M/s Sri Krishna Communication through, Manoj KUMar Chandel aged about 40 yrs. (M), Resident of Station Road, Near Ram Line Hotel, Satgama, Jamui, at Present Residing at Lali Bhawan Compound Nehru Nagar, P.S. Patliputra, Dist. Patna.
5. Manoj KUMar Chandel aged about 40 yrs. (M). Resident of Station Road, Near Ram Line Hotel, Satgama, Jamui, at Present residing at Lali Bhawan Compound Nehru Nagar, P.S. Patliputra, Dist. Patna.

... .. Petitioner/s

Versus

1. The Debts Recovery Tribunal through The Registrar 2nd Floor A, B, and F, Wings, Karpuri Thakur Sadan, Ashiyana Digha Road, Rajiv Nagar, Patna Pin Code-800025.
2. THE State Bank of India through its Chairman Cum Managing Director, Head Office at Madama Cama Road, Mumbai-400002
3. The General Manager, State Bank of India, Local Head Office at West Gandhi Maidan, Patna Pin Code-8000001
4. The Chief General Manager, State Bank of India, Local Head Office at West Gandhi Maidan, Patna Pin Code-8000001
5. The Assistant General Manager, State Bank of India, Stressed Assets Recovery Branch, 2nd Floor, Patna Main Branch Building, at West Gandhi Maidan, Patna Pin Code-8000001.
6. The Chief Manager, State Bank of India, Stressed Assets Recovery Branch, SARB, 2nd Floor, Patna Main Branch Building, West Gandhi Maidan, Patna-800001.
7. The Regional Manager, State Bank of India Regional Branch Office, at Munger.
8. The Chief Manager Cum Branch Head, State Bank of India, Main Branch, Jamui.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 787 of 2022)

For the Petitioner/s : Mr. P.N.Shahi, Sr. Advocate
Mr.Prabhat Ranjan Singh, Advocate
For the Respondent/s : Mr.Rakesh Kumar Singh, Advocate
Mr. Sanjay Kumar Thakur, Advocate

(In Civil Writ Jurisdiction Case No. 25655 of 2019)

For the Petitioner/s : Mr. P.N.Shahi, Sr. Advocate
Mr.Prabhat Ranjan Singh, Advocate
For the Respondent/s : Mr.Kaushlendra Kumar Sinha, Advocate
Mr. Sanjay Kumar Thakur, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)



(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 21-01-2022

Petitioners have prayed for the following relief(s)
in CWJC No. 787 of 2022:-

- I. That, I tender auction for sale notice published for sale in daily newspaper DAINIK JAGRAN on 12.12.21 (Annexure 6) under the SARFAESI Act, read with Rule 8(6) of Security Interest (Enforcement) Rules 2002 be quashed and set aside.
- II. That, the day 9.1.18, the date when account was declared as NPA is incorrect, besides, notice U/S 13 (4) of SARFAESI Act for possession of secured asset has not been served either upon the petitioners or pasted upon the premises in question or any conspicuous place, besides the valuation of property as referred in auction notice is Rs.2,25,00,000/- is wholly illegally, arbitrary, imaginary and assessed and fixed as per whim and caprice of Authorized Officer of Bank and as such whole exercise under SARFAESI Act right from 13 (2) stage, and Rule 8(5) and (6) of Security Interest (Enforcement) Rules 2002 is illegal, imaginary, without any cause of action, in the teeth of provisions contained therein, and as such instant e auction, to be held on 20.1.22 may kindly be set aside and quashed.
- III. That, for any other relief (s) for which petitioner is found entitled on the facts of this case and also in the eye of law.

Petitioners have prayed for the following relief(s)
in CWJC No. 25655 of 2019:-

- (I) For issuance of appropriate writ quashing & setting aside order/ Judgment/ Certificate dated 21.09.2019 passed by Ld. Debs Recovery Tribunal, Patna in the matter of O.A. No. 978/2018, Whereby and where under an amount of Rs.22,94,869.50 as on 15.11.2017 together with pendent elite and future interest @ 9% p.a. till realization and also in the matter of O.A. No. 976/2018 whereby and where under an amount of Rs. 76,66,17,573.50 as on 15.11.2017 together with pendent elite and future interest



@ 9% p. a has been ascertained against petitioner No. 1 and 5 without considering the petitioners' objections as they have been raised through filing the written statement.

- (II) Further for quashing & setting aside order/ Judgment/ Certificate dated 08.05.2019 passed by Ld. Debts Recovery Tribunal, Patna in the matter of O.A No. 979/2018 whereby and where under an amount of Rs.55,40,918 together with pendent elite and future interest @ 10% P. a. from 26.09.2018 of till a realization and also O.A No. 977/2018 whereby and where under an amount of Rs. 92,81,331 together pendent elite and future interest at contractual rate from 26.09.2018 till its realization has been ascertained against petitioner No.2 and 5 without giving opportunity of hearing.

- (III) For declaration of order/ Judgment/ certificate dated 21.09.2019 and further the order/ Judgment/ certificate dated 08.05.2019 as unenforceable and also null and void in law.

- (IV) For taking cognizance of forged & fabricated documents i.e. Letter dated 15.11.2017 marked as enclosure to the above noted Original Application filed by the Respondent bank before Ld. Debts Recovery Tribunal, Patna and also for taking penal action against the bank officials involved in the same. On account of deliberate withholding of



sanctioned working capital of one crore rupees entire investment of petitioners worth rupees more than six crores turned scape. Being a banker of welfare state respondents cannot act in such manner. They are supposed to encourage investors like petitioners.

(V) For issuance of writ/ writs, order/ orders, direction/ directions holding the Respondent Bank and its officials accountable for non-disbursement of sanctioned working capital and also classification of petitioners' loan accounts NPA or 'Out of Order' against the Master Circular of Reserve Bank of India and to award heavy Costs for the same.

(VI) For issuance of writ in the nature of Mandamus commanding and directing the respondent No. 1 to rehear the matter in view of the facts that O.A of Bank was containing wrong and misleading fact like classification of NPA of loan account on two different dates and also fake documents (a Letter dated 15.11.2017), and on that basis bank has obtained order in his favor, as a matter of fact petitioners had pointed out those wrongs of bank, but Id. Tribunal did not consider and deal those vital aspect while passing the impugned order. One account of bank cannot be classified NPA twice.

(VII) For awarding compensation to the petitioners in proportion to the loss suffered by the petitioners due to the closer of instant Rice Mill, its plant and machinery, building and other fixture attached to the Rice Mill. Entire Rice Mill, land, building, fixtures, plant and

machinery etc worth Rs.Six Crores had been installed/developed by the petitioners from their own source. But all turned scrap for want of working capital of Rs.one Crore only.

(VIII) For issuance of any other writ/writs, order/orders, direction directions for which petitioners are found entitled to on the facts and circumstances of the instant case.



After the matter was heard for some time, Shri P.N.Shahi, learned senior counsel, under instructions, states that petitioners be permitted to withdraw the present petitions reserving liberty to approach the Chief General Manager, State Bank of India, Local Head Office at West Gandhi Maidan, Patna pointing out the grievances as also submitting an offer for amicable resolution of the dispute.

None can have any objection to the same, for we have not expressed any opinion on the merits of the matter. We are passing this order conscious of the fact that at this point in time, both Debt Recovery Tribunal and Debt Recovery Appellate Tribunal are not functional for non-appointment of the Presiding Officer.

Let the petitioners approach the said respondent and submit their offer, which he positively shall consider and decide in accordance with law and more specifically, the Reserve Bank of India Guidelines, within a period of three months.

Liberty reserved to the parties to take recourse to such remedies as are otherwise provided in accordance with law.

Passing of this order shall not come in the way of the authority pursuing such remedy.



Petitions stand disposed of.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	23.01.2022
Transmission Date	

