IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2390 of 2022

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Sheojee Prasad, Son of Late Mahadev Prasad, Resident of 142, Maulabagh, Choudriyana Nala More, P.S. - Bhojpur, District - Bhojpur at Arrah, Pin Code 802301.

... ... Petitioner/s

Versus

1. The Authorized Officer, Union Bank of India, Danapur Cant Road, near Saguna More, Danapur, Hathikhana, Patna.
2. The Union Bank of India, through the Chief Manager, Regional Office, Arrah, District - Bhojpur.
3. The Branch Manager, Union Bank of India, Danapur Cant Road, Near Saguna More, Danapur, Hathikhana, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Amaresh Kumar Sinha, Advocate Mr. Satish Narayan Sinha, Advocate Mr. Vaibhav Narayan, Advocate Mr. Nagadeo Choubey, Advocate
For the Respondent/s	:	Mr. Anant Kumar Sharan, Advocate Mr. Prabhat Kumar Sharan, Advocate Mr. Jayant Kumar Sharan, Advocate Mr. 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 : 10-03-2022

Petitioner has prayed for the following relief(s):-

i) For the issuance of a writ in the nature of writ of certiorari or any other appropriate writ or order or direction, quashing the sale notice dated 15.01.2022, published in the Daily newspaper "Hindustan "dated 17.01.2022, whereby the date of e – auction of the properties of the petitioner has been fixed on 17.02.2022.

ii) For quashing all the actions taken by the respondent Bank under the SARFAESI Act

iii) For directing the respondent bank to make available the total payable dues under the prevailing O T S scheme of the bank for the purpose of settlement

iv) For holding and declaring that in the circumstance of the post of the Presiding Officer in the Debts Recovery Tribunal, Patna being vacant, the petitioners cannot be left without a legal remedy.

v) For further holding and declaring that the right to take recourse to a legal or statutory remedy is the constitutional right of the petitioners, which could not be exercised due to the vacancy of the post of the Presiding Officer, Debts Recovery Tribunal, Patna.

vi) For any other relief to which the Petitioner may be found entitled.

We are entertaining the present petition in view of the fact that at this point in time, the Debt Recovery Tribunal is not functional on account of non-appointment of Presiding Officer.

Even though auction was fixed for today, but none came to offer the bid.

As on 31.01.2022, petitioner was liable to pay a sum of Rs. 1.69 crore (approximately) plus incidental expenses.

Learned counsel for the petitioner states that vide cheque dated 18.01.2022, petitioner has already deposited a sum of Rs. 20,00,000/- with the respondent Bank, giving a proposal.

To show his *bona fides*, petitioner undertakes to deposit a sum of Rs. 30 lacs within next three working days.

Taking a holistic view, we dispose of the present petition on the following mutually agreeable terms:-

(a) Petitioner shall positively deposit a sum of Rs. 30 lacs within next three working days with the respondent Bank;

(b) Petitioner shall make himself available in the office of Respondent No. 2, namely the Union Bank of India through the Chief Manager, Regional Officer, Arrah, District-Bhojpur on 22nd March, 2022 at 10:30 A.M. with a fresh proposal, complete in all aspect, for- (i) re-determining the amount due and payable by the petitioner to the Bank; (ii) seeking waiver of interest on the principal amount due and payable in terms of the policy of the Bank as also the guidelines issued by the Reserve Bank of India;

(c) The Bank shall take a decision on the petitioner's request within a period of eight weeks thereafter;

(d) Such decision has to be in accordance with law; the guidelines issued by the Reserve Bank of India and maintaining parity;

(e) Till the time proposal is pending with the authorities, no coercive action shall be taken against the petitioner.

(f) Cheque of Rs. 20,00,000/- deposited by petitioner, shall also be encahsed by the Bank.

(g) If the petitioner fails to deposit a sum of Rs. 30 lacs, as undertaken by him, or repay the amount in terms of the schedule fixed by the Bank on mutually agreeable terms, it shall be open for the Bank to take recourse to the remedies in accordance with law, including sale of mortgaged/hypothecated property.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	11.03.2022
Transmission Date	