IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2790 of 2022

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Jitendra Kumar Gupta Son of Late Dayanand Gupta, Resident of Village and Police Station Mansurchak, District - Begusarai.

... ... Petitioner/s

Versus

1. The Dakshin Bihar Gramin Bank through the Chairman, East Lakshmi Nagar, Ramkrishna Nagar, Patna.
2. The Chairman, Dakshin Bihar Gramin Bank, East Lakshmi Nagar, Ramkrishna Nagar, Patna.
3. The Regional Manager, Dakshin Bihar Gramin Bank, at Sona Jageshwar, Complex, Traffic Chowk, Begusarai.
4. The Branch Manager, Dakshin Bihar Gramin Bank at Chhabilapur, Police Station- Mansurchak, District - Begusarai.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinesh Maharaj, Advocate Mr. Satish Kumar Singh, Advocate
For the Respondent/s	:	Mr. Ranjeet Kumar Pandey, Advocate

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

Date : 28-02-2022

Heard learned counsel for the parties.

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

1. That, this writ application is being filed on behalf of the above named petitioner for issuance of appropriate writ/writs direction/directions to the Respondents to quash the "Sale Notice For Sale of Immovable Property" dated 02.02.2022, issued under Rule 8(6) and 9(1) of the Security Interest (Enforcement) Rule 2002, whereby and where under the Respondent Bank has decided to sale the immovable property of the petitioner and fixed the date for the same on 04.03.2022, as well as for grant of Interim stay of the said Notice dated 02.02.2022 during pendency of this application.

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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.

It is the petitioner's case that on account of certain hardships emanating out of current Pandemic Covid-19, petitioner could not adhere to the time schedule for repaying the amount of loan.

Learned counsel for the petitioner states that notwithstanding such hardships, certain amounts were paid, and as such, as on date only a sum of ₹18,00,000/- (eighteen lacs) is due and payable by the petitioner.

On the other hand, it is the case of the respondent Bank that at this point in time, petitioner is liable to pay a sum of ₹32,00,000/- (thirty two lacs) [approx.].

It is only on account of non-payment that the respondent Bank, left with no option, but to initiate the proceedings for putting the mortgaged property to auction.

At this stage, learned counsel for the petitioner states that petitioner is ready and willing to approach the respondent Bank giving a proposal, complete in all respect, for One Time Settlement and (a) seek 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; (b) waiver of

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charges; (c) re-fixation of the amount due and payable by the petitioner to the Bank as also the schedule of payment. Also, to show his *bona fides*, petitioner is ready and willing to deposit a sum of ₹5,00,000/- (five lacs) within a period of two weeks from today and the remaining amount of ₹13,00,000/- (thirteen lacs) within a period of six months.

On the other hand, learned counsel for the respondent Bank states that it is for the authorities to take a decision on these aspects.

As such, we dispose of the present petition in the following mutually agreeable terms:-

(a) Petitioner shall make himself available in the office of Respondent No. 2, namely The Chairman, Dakshin Bihar Gramin Bank, East Lakshmi Nagar, Ramkrishna Nagar, Patna on 8th of March, 2022 at 10:30 A.M. in terms of his statement, recorded supra;

(b) Petitioner shall deposit a sum of ₹2,50,000/- within a period of one week from today and further ₹2,50,000/- within a period of one week thereafter;

(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 taken by passing a reasoned and speaking order; in accordance with law; the

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guidelines issued by the Reserve Bank of India;

(e) Obviously, such decision has to be on the settled proposition of law maintaining parity;

(f) Till such time the decision is taken, no coercive steps be taken against the petitioner;

(g) Liberty reserved to the petitioner to challenge the order, should the need so arise subsequently;

(h) If the petitioner fails to deposit a sum of ₹5,00,000 (five 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)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	03.03.2022
Transmission Date	

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