

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3340 of 2022

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M/s Vidyapati Cold Storage Pvt. Ltd. a Company Incorporated Under Companies Act, 1956 having its registered Office at 113, Hemchandra Naskar Road, Kolkata, West Bengal, India- 700010 Having its Place of Work at Vidyapati Nagar, Samastipur at Bihar through its Managing Director Ashok Kumar, Male aged about 72 Years, S/o Jangilal Sah, H No. 48, Mirjapurganj, Vidyapati Nagar, Samastipur, Bihar- 848503.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Personnel and Administration, Govt. of Bihar, Patna.
2. District Magistrate, Samastipur, Bihar.
3. Sub-Divisional Magistrate, Samastipur.
4. Authorized Officer, Punjab National Bank, Circle Sastra, Bhagalpur (Ground Floor-Naulakha Apartment) Opp. DIG Kothi, Badi Khanjarpur, Bihar- 812001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Jha, Advocate Mr. Jyoti Prakash, Advocate
For the Respondent/s	:	Mr. Md. N.H. Khan (SC-1) Mr. Kumar Priya Ranjan, Advocate

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

Date : 04-04-2022

Heard learned counsel for the parties.

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

“1. That the present writ petition is being filed for quashing order dt. 28.01.2022 under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002



(hereinafter referred to as SARFAESI Act, 2002) which was passed relying on decision of Bombay High Court in Cr. W.P. No. 2767 of 2006 under Section 14 of the SARFAESI Act, 2002 which was not in existence on the date of the order impugned and was amended by the Enforcement of Security Interest and Recovery of Debts Law (Amdt.) Act, 2012 (Act 1 of 2013) dt. 3.1.2013 w.e.f. 15.01.2013.

The petitioner further prays for issuance of any appropriate writ/writs, order/orders and/or direction/directions for 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.

On 23rd of March, 2022, we had passed the following order:-

“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.

Petitioner undertakes to deposit a sum of Rs. 60 lacs within one week and pay the entire outstanding amount of Rs. 7 crore [seven crore] (approximately) on or before 30th of November, 2022. Such payment would also



include all charges, interest accrued, amount of penalty, if any.

Let an undertaking to the aforesaid effect be filed by the petitioner within a period of one week from today.

In any event, the amount of Rs. 60 lacs be deposited with the respondent Bank within a period of one week from today.

We clarify that such deposit shall be without prejudice to the respective rights and contentions of the parties and subject to the outcome of the present petition.

With the petitioner depositing the aforesaid amount with the respondent Bank, no coercive action shall be taken against the petitioner.

If the petitioner does not deposit the a sum of Rs. 60 lacs with the respondent Bank in the manner indicated above and within the time stipulated, and commits breach of the undertaking, the interim order shall automatically stand vacated.

List this case on 30.03.2022.”

Learned counsel for the petitioner states that in compliance of the order passed by this Court dated 23rd of March, 2022, petitioner has filed an affidavit/undertaking dated 30th of March, 2022. Also, petitioner has already deposited Rs. 60 lacs with the respondent Bank.

Paragraph Nos. 2 and 3 of the affidavit dated 30th of March, 2022 reads as under:-

“2. That during the course of hearing on



23/03/2022 Petitioner undertakes to deposit a sum of Rs. 60 Lacs within one week and pay the entire outstanding amount on or before 30th November, 2022, Hon'ble High Court Patna recorded the submissions of the Petitioner and direct to file affidavit for compliance of its undertaking.

3. That in compliance of the order dated 23/03/2022 the Petitioner undertakes as follows:

A) To pay Rs. 60 Lacs on 30/03/2022 or on 31/03/2022 for the reason the bank was closed for consecutive four days.

B) The balance outstanding amount as per order dated 23/03/2022 will be paid on or before 30/11/2022.”

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

Statement made by the petitioner in the affidavit dated 30th of March, 2022 is accepted as undertaking for complying with the stipulations contained therein.

Learned counsel for the respondent Bank states that petition can be disposed of in terms of the undertaking so furnished.

Consequence of breach thereof, including initiation of proceedings for contempt having violated the



undertaking furnished before this Court stands explained to the petitioner through the learned counsel.

As such, petition is disposed of in the following terms:-

(a). Undertaking of the petitioner dated 30.03.2022 (reproduced supra) is accepted and taken on record;

(b) Petitioner has been made aware of the consequences of breach thereof, including initiation of proceedings for contempt;

(c) In the event of default of the undertaking, liberty reserved to the Bank to take recourse to the remedies in accordance with law, including sale of mortgaged/hypothecated property;

(d) Liberty also reserved to respondent Bank, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court;

Petition stands disposed of in the aforesaid terms.

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

(e) Until 30th of November, 2022, *status quo* as on date be maintained and no further coercive steps shall be



taken against the petitioner;

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	06.04.2022
Transmission Date	

