

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3288 of 2022

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Mithlesh Malakar S/o Anil Kumar Malakar resident of Village/ Mohalla-
Basudeopur, P.S. Kotwali, Distt- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar.
2. The Principal Secretary, Department of Home, Government of Bihar.
3. The District Magistrate, Munger.
4. The General Manager, Canara Bank, Exhibition Road, Patna.
5. The Chief Manager, Regional Business Office, Canara Bank, Munger, Purnea.
6. The Authorized Officer, Canara Bank, Munger, Purnea.
7. The Branch Manager, Canara Bank, Munger- II.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Kamal Nayan, Advocate Mr. Sudhanshu Trivedi, Advocate
For the Respondent/s	:	Mr. Md. N.H. Khan, SC-1 Mr. Onkar Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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(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.)

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Date : 25-02-2022

Heard learned counsel for the parties.

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



(i) For issuance of writ of certiorari to quash the notice dated 14.01.2022 under section 13(4) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002.

(SERFAESAI Act) read with Rule 8(6) of Security Interest (Enforcement) Rule 2002, issued by the Authorised Officer, Canara Bank, (Munger), Purnea, whereby and whereunder the Authorised Officer Canara Bank, (Munger), Purnea has fixed the date of e-auction i.e. 28.02.2022.

(ii) For directing and commanding the Authorised Officer Canara Bank, Munger to stay the operating part of the Notice dated 14.01.2022.

(iii) For any other relief(s) be granted to the petitioner for which they are found entitled in the facts and circumstances of the case.

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.

To show his *bona fides*, petitioner undertakes to deposit ₹3 lacs within a period of one week from today.



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

(a) Petitioner shall positively deposit a sum of ₹3,00,000/- (three lacs) with the respondent Bank within a period of one week from today;

(b) Petitioner shall make himself available in the office of Respondent No. 6, namely the Authorized Officer, Canara Bank, Munger, Purnea on 8th of March, 2022 at 10:30 A.M. with a 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) Till then, *status quo* as on date shall be maintained;

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



maintaining parity;

(f) If the petitioner fails to deposit a sum of ₹3,00,000/- (three 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	28.02.2022
Transmission Date	

