

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6877 of 2021

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Mahendra Sah S/o Late Raghunath sah R/o Village-Kolua Paigambarpur, P.S.-
Ahiyapur, District-Muzaffarpur, Bihar, Pin-843108.

... .. Petitioner/s

Versus

1. The Canara Bank through its Chairman Cum Managing Director.
2. The Regional Manager, Canara Bank, Bihar, Patna.
3. The Chief Manager, Canara Bank, Bhagwanpur Branch, Muzaffarpur.
4. The Authorized Officer, Recovery Branch of Canara Bank, Bhagwanpur,
Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh, Advocate
For the Respondent/s : Mr.Sanjiv Kumar,

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

Date : 12-07-2022

Heard learned counsel for the parties.

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

(i) For issuance of a writ in the nature of 'Certiorari' to quash the entire proceeding initiated u/s 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter in short called Act 2002) which commenced through the issuance of Demand notice U/s 13(2) dated 29.08.2020 since the respondent bank had earlier declared NPA amount of Rs. 13,20,104/- and instituted the same process U/s 13(2) on dated 21.05.2016 and on the assurances of the bank the petitioner has already deposited Rs. 6,91,000/- and again the same bank

has initiated fresh proceeding showing Rs. 13,20,490.05 which is patently illegal.

(ii) To issue a writ in the nature of mandamus directing the respondent to not harass the petitioner by way of recovery proceeding under the said Act, 2002 for the reason that petitioner has paid substantial amount on their assurance and is ready to make payment of all principal loan amount in equal easy installment with simple interest.

(iii) Further to direct the respondent bank to credit the amount of Rs. 6,91,000/- deposited by the petitioner against the principal

amount of Rs.12,00,000/- and further to permit the petitioner to pay the balance amount in easy equal installment.

(iv) To further hold that all the proceeding initiated by the Syndicate Bank by letter No. SARFAESI-7497/2016/VKI dated 21.05.2016 and further action taken pursuant to such notice including action u/s 13(4) of the Act 2002 as also the notice vide memo No.302 dated 12.09.2018 arising out of SARFAESI Case No.13/2018-19 dated 12.09.2018 to be illegal.

(v) To restrain the respondent from disturbing the petitioner by which they are adamant to oust the petitioner from the residential house during dominance of pandemic COVID-19.

(vi) To grant any other reliefs for which petitioner is entitled to have.

Learned counsel for the petitioner states that the petitioner shall immediately move an application seeking

restoration of the petition filed before the DRT, which stands dismissed in default vide order dated 11.07.2022.

Let needful be done within this week.

We are hopeful that till such time a decision on such application is taken by the authorities, the respondent shall not precipitate the action for taking over possession of the property in question. This shall be for a period of four weeks from filing.

We only hope and expect the tribunal to expeditiously decide the application/petition on merits in accordance with law.

The petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	