IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3684 of 2022

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Amit Kumar, son of Sri Satendra Singh, Residence of Syndicate, P.O. + P.S.- Town Thana Buxar, District- Buxar- 802 101.

... ... Petitioner/s

Versus

1. Regional Manager, Canara Bank, 2nd Floor, Maurya Tower, Maurya Lok Complex, Patna- 800 001.
2. Authorised Officer, Canara Bank, 2nd Floor, Maurya Tower, Maurya Lok Complex, Patna- 800 001.
3. Branch Manager, Canara Bank, Near Namak Gola, Buxar- 802 101.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Nandan Prasad, Advocate
Mr. Uma Shankar Kumar, Advocate

For the Respondent/s : Mr. Rajan Ghoshrave, 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 : 01-04-2022

Heard learned counsel for the parties.

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

(i) That this is an application for issuance of a writ in the nature of mandamus or any other appropriate writ, or order or direction commanding the respondents to reschedule the arrear of loan advanced to the petitioner for business as the petitioner could not deposit the instalment and further direct the Respondents also not to take action under SARFAESI Act as well as not to take action till the disposal of writ application.

(ii) For issuance of a writ in the nature of mandamus commanding the respondent bank not to take any coercive action against the petitioner firm or the secured asset for realization of loan amount till the account is restructure by the bank.

(iii) For any other relief/reliefs which may be deemed fit and proper by this Hon'ble Court.

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.

Learned counsel for the petitioner states that petitioner is ready and willing to deposit the entire loan amount. Also, the petitioner is ready and willing to submit a proposal to the respondent Bank for (a) Re-determining the amount due and payable by the petitioner to the respondent Bank; (b) waiver of component of interest/penalty in terms of the policy of the Bank as also the guidelines issued by Reserve Bank of India and (c) fixing the schedule for repayment of the amount due and payable.

Additionally, to show his *bona fides*, petitioner undertakes to deposit a sum of of ₹20 lacs (twenty lacs only) with the respondent Bank within a period of two months from today, spread over an instalment of Rs. 5 lacs (five lacs) per two weeks.

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

(a) Petitioner shall positively deposit a sum of ₹20,00,000/- (twenty lacs) with the respondent Bank within a period of two months from today, spread over an instalment of ₹5 lacs (five lacs) per two weeks;

(b) Petitioner shall make himself available in the office of Respondent No. 2, namely the Authorised Officer, Canara Bank, 2nd Floor, Maurya Tower, Maurya Lok Complex, Patna- 800 001 on 11th of April, 2022 at 10:30 A.M. with a proposal, complete in all respect, for-(i) re-determining the amount due and payable by the petitioner to the respondent Bank; (ii) seeking waiver of interest/penalty 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 respondent 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) Until the decision is taken, *status quo* as on date be maintained;

(f) If the petitioner fails to deposit a sum of ₹ 20,00,000/- (Twenty 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)

PKP/Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	06.04.2022
Transmission Date	