IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8383 of 2021

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Sadhana Kumari Wife of Late Binay Kumar Resident of Vihswamohani Apartment, Flat No. B - 206, Chandmari Road, Near Shalimar Sweets, Sampatchak, Lohia Nagar, Patna - 800020, Bihar

... ... Petitioner/s

Versus

1. The State Bank of India Through its General Manager, State Bank of India, 5th Floor, Local head Office, West Ganghi Maidan, Patna - 800001, Bihar
2. The Assistant General Manager, State Bank of India, 8th Floor, Local Head Office, West Gandhi Maidan, Patna - 800001, Bihar,
3. The Assistant General Manager, Retail Assets Central Processing Centre, Patna (RACPC), 1st Floor, Patna Main Branch Building, West Gandhi Maidan, Patna - 800001, Bihar
4. The Chief Manager, Retail Assets, Central Processing Centre, Patna (RACPC), 1st Floor, Patna Main Branch Building, West Gandhi Maidan, Patna- 800001, Bihar
5. The Branch Manager, State Bank of India, Patna Main Branch, West Gandhi Maidan, Patna - 800001, Bihar.
6. The Regional Manager, State Bank of India Life Insurance Co. Ltd., 6th Floor, Patna One Mall, Near Dak Bunglow Chouraha, Patna - 800001, Bihar
7. The Branch Manager, State Bank of India Life Insurance Co. Ltd., 6th Floor, Patna One Mall, Near Dak Bunglow Chouraha, Patna - 800001, Bihar

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Navneet Govindam, Advocate Ms.Aishwarya Shree,, Advocate
For the Respondent/s	:	Mr.Sanjiv Kumar, Advocate Mr. Bindhyachal Rai, Advocate

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

Date : 18-01-2022

Heard learned counsel for the parties.

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

> “a. For issuance of an appropriate writ or direction to set aside the impugned order dated 01.09.2020 of the learned Banking Lokpal;
>
> b. For issuance of an appropriate writ or direction to the respondent bank to furnish certified copies of all entries in the banker’s book of the record in relation to the letter dated 29.01.2018 which is the basis of the impugned order, to the petitioner.
>
> c. For issuance of an appropriate writ or direction to quash and set aside the notice/letter dated 29.02.2020 served by the respondent no. 3;
>
> d. For issuance of an appropriate writ or direction to the respondent bank to initiate inquiry into the genuineness of the letter dated 29.01.2018;
>
> e. For issuance of an appropriate writ or direction to quash and set aside the concocted letter dated 29.01.2018 as arbitrary, irrational and against the law;
>
> f. For issuance of an appropriate writ or direction to respondent bank to rectify the false entries in relation to the ‘amount sanctioned’ and ‘details of the property mortgaged’ as per the arrangement letter in their books of record;
>
> g. For issuance of an appropriate writ or direction to respondent bank and financial institution to honour the claim of the justified petitioner as per the arrangement letter and not arbitrarily;
>
> h. For issuance of an appropriate writ or direction to respondent bank and financial institution to honour the terms of the arrangement letter and not arbitrarily;

I. For issuance of an appropriate writ or direction to respondent bank and financial institution to follow rules and regulations in its letter and spirit;

j. For issuance of an appropriate writ or direction to respondent bank to pay exemplary damages to the petitioner for the arbitrary, discriminatory and oppressive conduct;

k. Also for any other appropriate relief(s) to which the petitioner is found entitled either in the eye of law or in the facts and circumstances of the case."

It is the petitioner's contention that the Ombudsman of the respondent-bank has dismissed the petitioner's complaint by accepting the respondents version, which is based on forgery and act of fraud. As such, petitioner has approached this Court seeking not only setting aside the order passed by the Ombudsman but also a direction for sanctioning the remaining amount and removing the entries of the mortgaged property.

It is contended that without the petitioner's knowledge, the residential property was reflected to have been mortgaged in the loan application.

Since, serious disputed questions of fact are involved in relation to the agreement entered into between the parties, to the *lis*, we deem it appropriate to leave it to the petitioner to agitate all issues including the correctness of the order passed by the Ombudsman, in an appropriate forum.

It is not that the petitioner does not have an equally efficacious alternative remedy. Such fact is not disputed.

We are hopeful that as and when such action is initiated, the issue would be adjudicated expeditiously and in accordance with law.

Petition stands disposed of.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.01.2022
Transmission Date	