

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7617 of 2022

Kulganga Enterprises Private Limited a company registered under the Indian Company Act, having registered office at Flat No. 406, Shyam Bindeshwar Residency, Sharma Path, Khajpura, Bailey Road, P.S.-Shastri Nagar, District Patna through its Director Santosh Kumar, Male, aged about 45 years, son of Shri Bhagwan Lal Jha, resident of Flat No. 122, Jamuna Apartment, Boring Road, Bailey Road, P.S.-Shri Krishna Puri, District-Patna.

... .. Petitioner/s

Versus

1. Managing Director and Chief Executive Officer Bank of Baroda Baroda Corporate Centre, C-26, G-Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051.
2. General Manager @ Head MSME Banking Department, Bank of Baroda, Baroda Corporate Centre, C-26, G-Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051.
3. General Manager, Bank of Baroda, Zona Office, 5th Floor, Anand Vihar, Panchmukhi Mandir, West Boring Canal Road, Patna, Bihar-800001.
4. Regional Manager, Bank of Baroda, Regional Office, 5th Floor, Anand Vihar, Panchmukhi Mandir, West Boring Canal Road, Patna, Bihar-800001.
5. Chief Manager, Bank of Baroda, MSME Kadamkuan Branch, Geeta Bhawan, Patna, Bihar-800003.
6. Resurgent India, Corporate Office at 903-904, Unitech Business Zone, Tower C, Nirvana Country, Sector-50, Gurgaon.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. D. V.Pathy, Advocate Mr.Sanjeev Ranjan, Advocate
For the Respondent/s	:	Mr.Vivek Prasad, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

- (i) For a writ of certiorari to quash the letter dated 05.05.2022, issued under the signature of Chief Manager, MSME, Kadamkuan Branch by which the bank has held the unit to be ineligible for restructuring / revival despite submission of a favourable Techno Economic Viability Report by the Consultant appointed by the Bank and thus the communication is arbitrary and suffers from perversity.
- (ii) For a writ of mandamus commanding the respondent no. 1 to 5 to act upon the recommendation made by the consultant appointed by the respondent to conduct Techno Economic Viability of the unit and to finance the project in terms of the recommendation made by the consultant as the same is binding on the respondent bank.
- (iii) For a writ of mandamus that the action of the Bank in sitting tight over the recommendation made by the Consultant appointed by it pursuant to the order passed by the Hon'ble High Court is arbitrary and unfair as bank being a public institution must act with fairness.

(iv) For a writ of mandamus for enforcement of the order dated 13.01.2022, passed by the Division bench of this Hon'ble Court to positively take a decision on the proposal submitted by the petitioner for revival of the unit and the action of the Bank in appointing a Consultant to judge the viability & feasibility of the proposal and consequently upon the report being submitted by the Consultant that the unit is technically feasible and financially viable and on account of under Financial the same could not be run successfully and viable unit became sick unit,

and therefore it is expedient in the interest of Justice to direct the bank to comply with the recommendation of financing the unit to make it viable.

(v) For any other relief / reliefs to which the petitioner is found entitled in the facts and circumstances of the case.

It is a matter of record that pursuant to our order dated 13.01.2022 passed in CWJC No. 13108 of 2021, titled as Kulganga Enterprises Private Limited Versus Managing Director and Chief Executive Officer, Bank of Baroda and Ors.,

the writ petitioner had approached the respondent Bank.

Perhaps, the decision taken is not acceptable to the petitioner. Resultantly, parties are now litigating before the Debt Recovery Tribunal.

Shri D. V. Pathy, learned counsel appearing for the petitioner, states that petition be disposed of with a direction to the Tribunal to decide the matter expeditiously.

No one can have any objection to the same.

Shri Vivek Prasad, learned counsel representing the respondent Bank, states that parties would fully co-operate and request the Tribunal for deciding the matter expeditiously.

As such, the petition stands disposed of in the following mutually agreeable terms:-

(a) Petitioner shall make himself available before the Tribunal on 29.07.2022 at 10:30 A.M.;

(b) The Tribunal shall take a decision on the petitioner's request within a period of six months;

(c) Parties shall fully cooperate and not take unnecessary adjournment;

(d) Liberty reserved to the petitioner to move an application before the Tribunal seeking interim protection;

(e) We have not expressed any opinion on merits.

All issues are left open.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2022
Transmission Date	NA