IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13108 of 2021

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.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP-7

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 : 13-01-2022

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 for setting aside the SARFAESI proceedings initiated by the respondent bank under Sec. 13 (2) and Sec. 13 (4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 or any other proceedings initiated by the respondent bank against the petitioner.

ii) To resolve the issue between the petitioner and the bank/respondents with respect to disbursement of adequate loan amount to the petitioner in order to run the mill efficiently in view of their own commitment and assurance given by the bank officials/respondents.

iii) To compensate the petitioner further loss caused by the inaction of the bank officials/respondents in granting adequate loan amount/financial facility in terms of their own commitment on fulfilling the condition for grant of adequate loan amount/financial facility by the petitioner.

iv) To compensate the petitioner for loss of interest due to charge of interest on the part of the loan granted despite approval for grant of full amount of loan/financial facility.

v) To compensate the petitioner for loss of goodwill and reputation due to failure to produce/supply the flour/food products in time even during grave pandemic situation.

vi) For grant of additional compensation to the petitioner on account of failure to follow the guidelines of India as well as Reserve Bank of India including assurance of the finance minister to grant/provide loan/financial facility to the MSME units to recover from the grave pandemic situation.

vii) Further for issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled in the facts and circumstances of the case.

It is brought to our notice that in proceedings initiated by the petitioner herein, assailing the action taken by the respondent Bank, order in favour of the petitioner directing *status quo* stands passed by Debt Recovery Tribunal, Patna. It is also brought to our notice that at this point in time, said Tribunal is not functional only on account of non-appointment of a Presiding Officer.

Be that as it may, petitioner stands adequately protected, for undisputedly, such interim order granting interim protection stands continued to be in operation. In so far as rehabilitation of the petitioner by way of financial assistance is concerned, in our considered view, interest of justice would be best met if the petitioner were to approach the respondent Bank with a concrete proposal.

At this stage, Shri Vivek Prasad, learned counsel appearing on behalf of the respondent states that the petitioner is playing hide and seek; is indulging into forum shopping and does not have the intent or the wherewithal of repaying the amount loaned by the Bank. Also, petitioner's account also stands declared as NPA.

Well, such facts are seriously disputed by the petitioner.

Be that as it may, in our considered view, interest of justice would be best served with the petitioner approaching the respondent Bank, clearly submitting a concrete proposal dealing with all the issues, subject matter of the present petition, and one highlighted by the respondents before different forums. We are hopeful that the Bank, considering the fact that the petitioner has established industrial unit within the State of Bihar would take a stand which is just, fair and reasonable.

Let the petitioner approach the Bank with a complete proposal within next two weeks and the Bank positively take a decision thereupon within next two months, after satisfying with the petitioner's intent to revive the unit.

With the aforesaid directions, the present petition stands disposed of.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	17.01.2022
Transmission Date	