

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16407 of 2019

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Dinesh Kumar S/o Brij Bihari Singh, Resident of Flat no. 401, Shreeman Apartment, Rai Jee Gali, (Nageshwer Colony) East Boring Canal Road, Patna.

... .. Petitioner/s

Versus

1. The Indian Overseas Bank through its Chief Regional Manager, Indian Overseas bank, having office at Naseema House, 2nd and 3rd Floor West Gandhi Maidan, Patna.
2. The Chief Regional Manager, Indian Overseas Bank, Patna.
3. The Branch Manager Indian Overseas Bank, Kankarbagh Branch, District-Patna.
4. The authorized Officer Indian overseas Bank, Kankarbagh Branch Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Narayan, Advocate
For the Respondent/s : Ms. Sheela Sharma, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 22-12-2022

Heard learned counsel for the parties.

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

“ i) quashing letter dated 28.03.2019 and 16.04.2019 issued under signature of respondent no. 2 appointing private recovery agent Vision Fin Solutions, Pvt. Ltd. IIBM Campus, Budha Marg Patna' for recovery of loan forcefully. The petitioner also prays for orders restraining respondents/or its agent from adopting unlawful or coercive means and forces for recovery of any amount claimed against petitioner, which is sub-judice.

ii). The petitioner prays for commanding respondents to primarily approach the Credit Guarantee Fund Trust for Micro and Small Enterprises, (in short CGTMSE), under which the loan has been sanctioned, for adjusting 75% of its NPA amount, as



also after adjusting the subsidy amount assured by the Bihar Road Transport Corporation under agreement to which the term loan of Rs.9400000/- has been issued for purchasing 8 buses.

ii). The petitioner prays for issuance of directions to the respondents to continue ongoing negotiation process under OTS initiated by the respondents under the OTS proposal vide ref. no 1659/TL/271100023/NPA /2018-19 dated 05.06.2018, offering settlement of NPA account NO. 165903271100023 for Rs. 4200000/-(rupees Forty two lacs only) for settlement of dues payable by the petitioner. The petitioner had given his consent to settle loan, under OTS proposal and while explaining his 'Net worth Financial Position' had requested for further negotiation. He asked for waiving the subsidy amount payable by the BSRTC from the proposed OTS amount and further permit him to sell hypothecated Buses to pay the balance of settled amount under OTS. The petitioner had requested for restoring goodwill in settling loan by returning documents of property papers of Flat no. 401 Shreeman Apartment Boring Canal Road Patna, which is not mortgaged for the loan. The property papers of this deposited by the wife and son in connection with another loan is being illegally retained by the Bank.

iii). The petitioner prays issuance for a direction to the respondents and restrain them from attaching Flat No. 401, Shreeman Apartment at Rai Jee Gali, East Boring Canal Road P.S.- Budha Colony, District-Patna. The respondent Bank mutualizing privilege of possessing the papers/ documents of this flat in connection with loan of petitioner's son has threatens to sell this flat for recovery of loan of petitioner. The loan taken by the son of petitioner has been refunded in full and final, but the respondent Bank is retaining property documents illegally.”

It is not in dispute that proceedings, subject matter of the



writ petition, are now also pending before the Debt Recovery Tribunal, Patna, constituted under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

As such, learned counsel for the petitioner seeks permission to withdraw the present petition reserving liberty to pursue the matter before another forum, including the issue, subject matter of the present petition.

Liberty as prayed for is granted.

We only hope and expect that the proceedings before the Debt Recovery Tribunal, Patna would be completed expeditiously, within a period of four weeks.

All issues raised in the present petition, including that of (a) collusion; under valuation and *mala fides*, are left open to be adjudicated by the competent authority.

The instant petition stands disposed of as withdrawn in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Ashwini/Sujit

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