

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19981 of 2021

1. M/S. Rajpati Agro Godowns Private Limited having its Registered Office at Village - Lodipur Bazar, P.O.- Beyapur, P.S.- Maner, District - Patna through its Managing Director Mukesh Kumar aged about 31 years, son of Sri Ram Pravesh Rai resident of Village - Lodipur Bazar, P.O.- Beyapur, P.S.- Maner, District - Patna.
2. Mukesh Kumar Son of Sri Ram Pravesh Rai resident of Village - Lodipur Bazar, P.O. - Beyapur, P.S.- Maner, District Patna, Managing Director of M/S Rajpati Agro Godowns Private Limited.

... .. Petitioner/s

Versus

1. The Union Bank of India (Erstwhile Corporation Bank) a body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980, having its Head Office at Union Bank Bhavan, 239, Vidhan Bhavan Marg, Nariman Point, Mumbai - 400021.
2. The Union Bank of India through its Manager-cum-Authorised Officer, Branch Office - Hathikhana, Saguna More, Danapur Cantt, Road, P.S. Danapur, District - Patna.
3. The Manager-cum-Authorised Officer, Union Bank of India, Branch Office-Hathikhana, Saguna More, Danapur Cantt. Road, P.S.- Danapur, District - Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Sanjeev Kumar Mishra, Advocate Ms. Manini Jaiswal, Advocate Mr. Abinash Kumar, Advocate
For the Respondent/s	:	Mr. Shiv Pratap, Advocate Mr. Sudhanshu Shekhar, Advocate

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

(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.)

7 16-02-2022 Petitioner has prayed for following relief(s) : -

“(i) For issuance of appropriate writ to quash the letter dated 05.07.2019 issued under Sec. 13(2) of the SARFAESI Act, and letter dated 09.10.2019 issued under Section 13(4) of the SARFAESI.

(ii) For direction upon the Bank not to put the property on auction in the facts and circumstances of the case.

(iii) Pending hearing of the writ petition direction be given not to take coercive action against the petitioner.

(iv) Any other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case be granted to the petitioner.”

Indulgently, more so on account of the submissions made by Shri Verma, we close the proceedings for contempt, accepting the unconditional and unqualified apology tendered by the petitioner. Shri Verma states that petitioner volunteers to pay cost of Rs.10,000/- to the Advocates Clerks Welfare Fund.

Let the needful be done within next two working days. Petitioner shall file affidavit of compliance to such effect.

It is stated that the Debt Recovery Tribunal, Patna is not functional for want of appointment of its Presiding Officer. It is under this circumstance that we are entertaining this petition.



Shri Verma, under instruction, states that petitioner undertakes to deposit additional sum of Rs.10 Lakh within two weeks from today. The 1st installment of Rs.5 Lakh shall be paid within one week and the remaining amount of Rs.5 Lakh shall be paid in the second week.

Undertaking is accepted and taken on record.

Petitioner, who is present, is made aware of the consequences thereof. We clarify that if such undertaking is breached, we shall not hesitate to revive the proceedings for contempt and take a strict view.

In view of the statement made, petitioner is directed to approach the bank authorities, within two weeks by filing a proper application, after depositing Rs.5 Lakh within one week and the remaining amount of Rs.5 Lakh in the second week, with a proposal to fix the modalities for repayment of the rest of the mutually agreed amount, in equal monthly installments, spread over a period of six months and/or waiver of the component of interest in terms of the R.B.I. Guidelines and on principles of parity. The concerned bank authorities are directed to consider and decide the same within next two months.

Needless to add, while considering such request,



principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Property shall not be put to auction-sale till such time the decision is taken on the proposal of the petitioner. Also no coercive action shall be taken pending consideration of proposal.

If the petitioner does not deposit the sum of Rs.10 Lakh in the manner indicated above within the time stipulated, and commits breach of the undertaking, respondents shall be at liberty to put the property to auction-sale.

If aggrieved by the final decision taken by the Bank, petitioner shall be at liberty to approach this Court by way of separate petition(s), if so required and desired.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

Petition is disposed of in the aforesaid terms.

Interlocutory application(s), if any, shall also stand



disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/chn

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