

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20323 of 2021

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M/S Sainath Enterprises through its Proprietor Nikhil Tikmani (Male), aged about, 29 Years, Son of Sri Sushil Kumar Tikmani, Bela Industrial Estate, P.S.-Bela, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Muzaffarpur.
2. The Sub-Divisional Officer, Muzafarpur Sadar, Muzaffarpur.
3. The State Bank of India, SARB, West Gandhi Maidan, P.S.-Gandhi Maidan, Patna-800001.
4. The Regional Manager, Regional Office, State Bank of India, RASECC-Cum-SARB, Administrative Office, Club Road, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Prasad, Advocate
For the Respondent/s : Mr.Anil Kr. Singh (GP 26)
Mr. Sanjiv Kumar, Advocate

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

(Per: HONOURABLE THE CHIEF JUSTICE)

3 08-03-2022 Petitioner has prayed for the following relief(s):

“(i) For quashing the ex-parte order dated 16.09.2021 passed by Respondent No.1, the District Magistrate, Muzaffarpur in connection with Case No. 23SARFAESI/2021-22 (The State Bank of India (SARB), Patna Versus Sainath Enterprises communication of which has been received to the petitioner on 24.11.2021.

(ii) For issuance of a direction to the respondent authority not to take coercive action against the petitioner



during the pendency of the SARFAESI Appeal pending before the Debts Recovery Tribunal, Patna bearing SARFAESI Appeal No. 122/2021.

(iii) For any other relief/reliefs as your Lordships may deem fit and proper in the interest of justice.”

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.

Learned counsel for the petitioner states that the petitioner is ready and willing for one time settlement of the dispute by approaching the respondents with a proposal to fix the modalities for repayment of the rest 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 guidelines issued by the Bank as well as by the Reserve Bank of India.

To establish his bona fides, petitioner is ready and willing to deposit a sum of Rs. 6 Lakh within a period of one week and another sum of Rs.6 Lakh within one week thereafter.

Undertaking accepted and taken on record.

In view of the statement made by the petitioner, the



petitioner is directed to approach respondent No.4, namely The Regional Manager, Regional Office, State Bank of India, RASECC-cum-SARB, Administrative Office, Club Road, Muzaffarpur, within two weeks by filing a proper application, after depositing Rs. 6 Lakh within a period of one week and another sum of Rs.6 Lakh within one week thereafter, 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 against the petitioner pending consideration of proposal.

If the petitioner does not deposit the sum of Rs.12 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 said order, the petitioner shall have 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)

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