IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20416 of 2021

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M/s Akeshwari Foods Pvt. Ltd. through its Director - Bhola Prasad Singh, Aged about 61 years, Male, S/o Uttam Narayan Singh, R/o Mohalla - Karyanand Nagar, Ward No. 8, Purani Bazaar, P.O. and P.S. and District - Lakhisarai.

... ... Petitioner/s

Versus

1. The Dakshin Bihar Gramin Bank having its Head Office at Sri Vishnu Commercial Complex, NH-30, New Bypass, Patna through its Chairman - Cum - Managing Director.
2. The Zonal Manager, Dakshin Bihar Gramin Bank, Jamui.
3. The Regional Manager, Dakshin Bihar Gramin Bank, Zonal Office, Jamui.
4. The Branch Manager, South Bihar Gramin Bank, Lakhisarai.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Samir Kumar, Advocate Mr. Saurav Singh, Advocate
For the Respondent/s	:	Mr.Suresh Pd Singh No.1, Advocate

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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 : 08-02-2022

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

(i) For issuance of a writ in the nature of mandamus directing the respondents to consider the case of the petitioner in light of the COVID-19 pandemic and other factors/difficulties mentioned hereunder and agree to enter into a one-time settlement in terms of the guidelines of the Reserve Bank of India.;

(ii) For consequential reliefs in the shape of issuance of a writ/ direction in the nature of certiorari for quashing notice of possession issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (hereinafter referred to as 'Sarfaesi Act') with rule 8 of Security Interest (Enforcement) Rules 2002, (Hereinafter referred to as 'Rules') dated 28.10.2021 issued by the Respondent– Authorized Officer, Dakshin Bihar Gramin Bank, against the mortgaged assets of the petitioner

(iii) For issuance of a writ/ direction in the nature of certiorari for quashing demand notice issued under Section 13(2) of the Sarfaesi Act dated 28.07.2021 as the account of the petitioner has been turned to Non-performing Assets (NPA) without following the procedure and norms in this regard.;

(iv) For staying all the coercive action including SARFAESI proceeding against the petitioner which is initiated by the bank in a bias and arbitrary manner and to keep the entire Sarfaesi proceeding under abeyance till the disposal of this writ application.

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

We have entertained the present petition in view of the fact that Debt Recovery Tribunal and Debt Recovery Appellate Tribunal are not functional.

Learned counsel for the petitioner states that petitioner is ready and willing to settle the matter with the Bank.

As per notice dated 28.07.2021 (Annexure-6, Page 76), the petitioner was liable to pay a sum of Rs. 3,24,35,402.32. This was as on the date of issuance of said communication.

Learned counsel for the petitioner contends that the petitioner is ready and willing to have the dispute amicably resolved with the bank, for which purpose, to establish his *bona fide,* petitioner is ready and willing to deposit 25% of the said amount within a period of one month in four equal weekly installment when the first installment to be paid on 15.02.2022. Also, the petitioner shall approach respondent bank for One Time Settlement, seeking waiver off of the interest in terms of the guidelines of the Reserve Bank of India and also the action taken in the cases of similarly situated parties.

The respondent bank has no objection to the same.

As such, the petition is disposed of on the following mutually agreeable terms :-

(i) Petitioner shall deposit 25% of the amount of Rs. 3,24,35,402.32 with the respondent bank within a period of one month in four equal weekly installment, out of which first installment to be positively paid on 15.02.2022;

(ii) Petitioner through its authorized representative, make available in the office of respondent bank on 15.02.2022 at 10.30 A.M.; when a proposal for amicable settlement shall be submitted;

(iii) The bank shall take a decision on all aspects, including taking out the petitioner's account from the category of NPA and selling the property mortgaged/hypothecated or otherwise, in terms of the petitioner's request, which the petitioner shall be making in his representation.

(iv) The bank shall take a decision on such proposal in accordance with law, more so, the guidelines made by the Reserve Bank of India as also principle of parity;

(v) Needful be positively done within a period of two months thereafter;

(vi) Till the time proposal is pending with the authorities, no coercive action shall be taken against the petitioner.

(vii) In the event of petitioner failing to deposit the amount, it shall be open for the bank to take appropriate action in accordance with law.

The instant petition sands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	10.02.2022
Transmission Date	