

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20397 of 2021

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Sunita Kumari, Wife of Sri Sanjeev Kumar, proprietor of Pratibha Foods Industries, situated at Jethuli near Radio Station, P.O. and P.S. - Fatuha, District - Patna.

... .. Petitioner/s

Versus

1. The Punjab National Bank having its Corporate Office at Plot no. 4, Sector - 10, Dwarika, New Delhi- 75 through its Managing Director and Chief Executive Officer.
2. The Managing Director and Chief Executive Officer, Punjab National Bank having its Corporate Office at Plot no. 4, Sector - 10, Dwarika, New Delhi- 75.
3. The General Manager, Punjab National Bank, Circle Office (Patna North), Chankya Tower, R- Block, Patna.
4. The Authorised Officer cum Chief Manager, Punjab National Bank, Circle Office (Patna North), Chankya Tower, R-Block, Patna.
5. The Branch Manager, Punjab National Bank, Branch Office, Chowk, Patna City (Patna).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bajrangi Lal, Advocate
		Mr. Santosh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Kumar Priya Ranjan, 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 : 27-01-2022

The petitioner has prayed for the following relief/s :-

- i. For quashing of "Auction Notice" published in 'daily Prabhat Khabar' dated 06.11.2021 issued by respondent Punjab National Bank by which property mentioned at serial no.8 of PNB Chowk, Patna City Branch in sale notice has been put on auction fixing date of auction as 09.12.2021.
- ii. For quashing of possession taking notice dated 24.09.2021 /02.11.2021 where under and whereby land and the building bearing deed no.3991 dated 08.06.2012 situated in Mauza Jethuli Thana Fatuha, C.S. Khesra no.1519 (P) Khata no.50 Tauzi 123 (old) Thana no.01, sub registry office Patna City, Sadar Registry office Bankipur and District Patna measuring total area 1 katha 16 dhurs (2449.8sq.ft.) in name of Sri Gopal Prasad S/o Sri Basanty Raj and sale



deed no.6955 dated 12.12.2012 situated in Mauza Jethuli Thana Fatuha CS Khesra no.1504 (P) Khata no.165 Tauji no.66 (old) measuring area 2 katha 10 dhurs (7.8125 decimals) in name of Smt. Sunita Kumari Wife of Sri Sanjeev Kumar and Sri Neeraj Kumar S/o Sri Gopal Prasad has been taken over by the bank authorities behind the back of the petitioner without assessing its true valuation.

- iii. For quashing of letter dated 24.08.2021 issued under signature of the Authorised officer cum Chief Manager, Patna North Circle, Punjab National Bank, Patna where under and whereby the objection submitted by the petitioner in response to notice issued U/s 13 (2) has been rejected in most mechanical manner without assigning any reason and without providing opportunity of hearing to the petitioner which goes to the root of entire exercise of Bank.
- iv. Further for restraining the authorities of the respondent bank to auction the land and building of the property under mortgage mentioned in auction notice in view of the fact that the petitioner is ready to pay back the entire loan amount in bonafide instalment and also is willing to run the Industrial establishment known as Pratibha Foods Industries.
- v. And /or pass such other order/orders to which petitioner is entitled in the facts and circumstances of this case.

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

It is brought to our notice that the respondent bank



had issued an advertisement proposing to auction sale the property mortgaged by the petitioner with the respondent bank. Since none participated, such endeavour could not be taken to its logical conclusion.

We are further informed that a fresh notice in this regard stands published by the Bank and the auction is proposed to take place on 31st of January, 2022.

As per the notice issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and rules framed thereunder, as on 2nd November, 2021, petitioner was liable to pay a sum of Rs.32,95,305.84/-.

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 20 % of the said amount within a period of one week. Also, the petitioner shall approach respondent No.5, namely, the Branch Manager, Punjab National Bank, Branch Office, Chowk, Patna City, Patna 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, subject to the condition to the petitioner also bearing the cost of second notice which stands published for selling the mortgaged assets.

Petitioner is also ready and willing to sit with the bank for settlement of the said amount.

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

(i) Petitioner shall deposit 20% of the amount of Rs.32,95,305.84/- with the respondent bank positively within a period of one week from today;

(ii) She, either herself or through her authorized representative, make available in the office of respondent No.5, namely, the Branch Manager, Punjab National Bank, Branch Office, Chowk, Patna City, Patna, on 03.02.2022 at 10.30 A.M.; when a proposal for amicable settlement shall be submitted;

(iii) The bank shall take a decision thereupon in accordance with law keeping in view the guidelines issued by the Reserve Bank of India as also principle of parity;

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

(v) Till the time proposal is pending with the



authorities, no coercive action shall be taken against the petitioner.

(vi) 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 stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	28.01.2022
Transmission Date	

