

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20588 of 2021

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M/S Tulsi Vivek Infrastructure Pvt. Ltd. Through its proprietor Sri Ratan Kumar Mishra, Son of Sri Vijay Kant Mishra, Resident of Village and P.O. - Rahika, P.S.- Rahika, District - Madhubani.

... .. Petitioner/s

Versus

1. Punjab National Bank through its Zonal Manager Patna Zone, Zonal Office, R- Block, Patna.
2. Zonal Manager, Punjab National Bank, Patna Zone, Zonal Office, R-Block, Patna.
3. Regional Manager, Patna Zone, Zonal Office, R- Block, Patna.
4. Circle Officer, Punjab National Bank, Darbhanga Circle Office, G.M.Road, Darbhanga.
5. Branch Manager, Punjab National Bank, Madhubani Branch, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Amalendu Shekhar Thakur, Advocate Mr. Ram Prawesh Kumar, Advocate
For the Respondent/s	:	Mr.Kumar Priya Ranjan, Advocate Mr. Surya Kant Kumar, Advocate

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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.)

2 10-02-2022 Petitioner has prayed for following relief(s) :-

“(i) For Quashing the order for e-auction of the property of the petitioner dated 01.11.2021 issued by respondent no.4 and other



subsequent order/ letter/ notices/ actions Issued in pursuance as contained in Annexure no. '1' vide which the property of petitioner are illegally and arbitrarily put for sale through e-auction.

(ii) For direction to the respondents to restrain from illegally and unauthorized sale of the mortgaged property of the petitioner arbitrarily without any reasons or fault of the petitioner.

(iii) For direction to the respondents to allow the petitioner to pay the defaulted amount of MSME Loan instead of demanding the entire loan amount as the period for repayment of loan is still remaining about 54 months, with immediate effect.

(iv) For direction to the Respondent no.4 & 5 to stop misinterpreting the Sarfaesi Rule and the government measures under MSME Loan scheme as it is pro bona fide and honest entrepreneurs and not a tool to harass them.

(v) For direction to the respondents to maintain status quo as of today till the P.O. of D.R.T. Patna is being posted and start functioning in which the Petitioner has filed Sarfaesi Appeal vide S.A. sl.no.259 dated 06.12.2021 and allow the Petitioner at least 30 days time to regularize his MSM1 loan by paying the defaulted installments.

(vi) For direction to the Respondents to stop harassing the petitioners by their arbitrary, illegal and prejudiced acts.

(vii) For ex parte ad interim injunction on e-auction of the property scheduled on 9.11.2021.

(viii) Pass any other order which this Hon'ble Court may deem it and proper in the light of the facts mentioned hereinafter.

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.

After the matter was heard for some time, finding the Bench not to be agreeable with the submissions made by learned counsel for the petitioner, learned counsel for the petitioner, under instructions, states that petition may be disposed of, reserving liberty to the petitioner to approach the respondent Bank with a proposal for one time settlement of the dispute and 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.

Prayer allowed.

Petition is disposed of as withdrawn with the liberty aforesaid.

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, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

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