

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21074 of 2021

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1. M/s Shashiraj Yarn House through its proprietor Vikas Kumar having its registered office at Shop No. 3, Vishnu Market, Machharhatta, P.O. Jhauganj, Patna City, Patna - 800008.
 2. Vikas Kumar S/o Raj Kumar Singh, R/o Shop No.3, Vishnu Market, Machharhatta, P.O. Jhauganj, Patna City, Patna - 800008.

... .. Petitioner/s

Versus

1. The Union Bank of India through its Regional Manager, Frazer Road, Patna - 800001.
2. The Authorised Officer, Union Bank of India, Patna City Branch, G floor, Mahalaxmi Complex, Gurhatta, Near Durga Mandir, Patna City, Patna - 800008.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. G. Kaushal, Advocate Mr. Vivek Anand Amritesh, Advocate
For the Respondent/s	:	Mr. Manish Kishore, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE VIKASH JAIN
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 17-02-2022 Petitioner has prayed for following relief(s) : -

- i. For issuance of writ of certiorari to quash and cancel the sale notice dated 26/11/2021 whereby and where under secured immovable property mentioned in Schedule-I appended with this petition has been put for e-auction sale on 16/12/2021 at 11:30 a.m. to 01:30 p.m., and further for quashing Possession notice dated 23/08/2021 and demand notice



dated 23/04/2021 issued against the mortgaged property;

ii. For issuance of writ of mandamus directing the respondent Bank not to proceed for sale against the mortgaged property as petitioner is willing to settle the account amicably by paying off entire debts within a reasonable period of time; and

iii. This Hon'ble Court may be pleased to pass such other order/ orders, direction/ directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

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. 2.5 Lakh within a period of one week and another sum of Rs.2.5 Lakh within next two weeks.

Statement accepted and taken on record.



In view of the statement made by the petitioner, the petitioner is directed to approach the bank authorities, within two weeks by filing a proper application, after depositing Rs. 2.5 Lakh within a period of one week and another sum of Rs.2.5 Lakh within next two weeks, 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.5 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)

(Vikash Jain, J)

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