IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.32 of 2022

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Dhara Holiday LLP, Saguna More, Danapur, P.S.- Danapur, District- Patna through its Partner namely Rahul Kumar, Son of Late Ramesh Prasad, Resident of Bihari Kunj, Makhania Kuan Road, Patna, Bihar, India- 800001.

... ... Petitioner/s

Versus

1. The State Bank of India through its SME, Alankar Palace, Boring Road, Patna, First Floor, Alankar Place Boring Road, Patna- 800001.
2. General Manager, (GAD) State Bank of India Govt. Business Unit 19th Floor, Nariman Point Madam Cama Road, Mumbai- 400021.
3. Authorized Officer, State Bank of India, SME Branch, Boring Road, First Floor, Alankar Place Boring Road, Patna- 800001.
4. AGM, SARB, State Bank of India, Gandhi Maidan Branch, Patna.
5. Authorized Officer, State Bank of India, SARB, State Bank of India, Gandhi Maidan Branch, Patna.
6. Branch Manager, State Bank of India, SME Branch, Boring Road (Code 65rt0) First Floor, Alankar Place Boring Road, Patna- 800001.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s	:	Mr.Sanjiv Kumar, Mr. Sanjay Singh Thakur, Advocates

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

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

I. That the present writ application is being filed in the nature of *Certiorari* for quashing the possession notice dated 19.10.2021 under section 13(4) of the SARFAESI act issued by the respondent bank authorities for demand of Rs. 4,62,58,847.06 under the signature of authorized officer, State bank of India, respondent number 5; on the ground that the entire proceeding has been initiated without making the proper valuation of the property and without considering the earlier objection filed by the petitioner under section 13-3(A) of the SARFAESI act;

II. that the present writ application is being filed in the nature of mandamus for a direction to the respondent authority specially respondent number 3 to 6 for amicable settlement of the matter under the particular facts and circumstances of this case in relation to the account of the petitioner – company;

III. And pass any such other order/ orders as this Hon'ble Court deem fit and proper.

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

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.4,62,58,847.06/-.

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 Rs. ₹40 lacs within a period of one week. Also, the petitioner shall approach respondent No.4, namely, AGM, SARB, State Bank of India, Gandhi Maidan Branch, 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.

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 Rs. ₹40 lacs with the respondent bank positively within a period of one week from today;

(ii) Petitioner shall make himself available in the office of respondent respondent No.4, namely, AGM, SARB, State Bank of India, Gandhi Maidan Branch, Patna on 08.03.2022 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 sands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.02.2022
Transmission Date	NA