

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.438 of 2022

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M/s Jai Maa Service through its Prop. Smt. Reena Singh (F), aged about 48 years, W/o Sri Chunnu Singh, Resident of Lane No.8, Bailey Road, Rukanpura, Vijay Nagar, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bank of India, SARB, Patna through its Authorised Officer, 2nd Floor Patna, Main Branch Building, Western Gandhi Maidan, Patna.
2. The Authorised Officer, The State Bank of India, SARB Patna, 2nd Floor, Patna, Main Branch Building, Western Gandhi Maidan, Patna.
3. The Branch Manager, State Bank of India, NTPC Branch, Barh (Patna).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Kumar Sinha, Advocate
For the Respondent/s : Mr.Ajit Pratap Singh, Advocate

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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 the following relief(s):-

“i. For issuance of writ in the nature of certiorari for setting aside the impugned possession Notice dated 20.12.2021 of the Immovable property of the petitioner taken by the Respondents on 20.12.2021 under Section 13(4) of the SARFAESI ACT, 2002 read with Rule 8 (1) of the Security Interest (Enforcement) Rules 2002.

ii. For issuance of writ in the nature of mandamus directing upon the respondents to settle the matter after resorting to mandatory provisions of the SARFAESI ACT, 2002.

iii. For issuance of writ in the nature of mandamus directing upon the Respondents to release the collateral security document deposited by the petitioner and to handover the documents in original along with No Objection Certificate to the petitioner.

iv. For a direction to grant any other relief/reliefs as your lordship it may deem fit and proper in the facts and circumstances of the case.”

We are entertaining the present petition in view of the fact that at this point in time, the Debt Recovery Tribunal is not functional on account of non-appointment of Presiding Officer.

Learned counsel for the petitioner states that on 6th of January, 2022, petitioner has already deposited a sum of Rs. 3 lacs with the respondent Bank, giving a proposal for One Time Settlement.

To show his *bona fides*, petitioner undertakes to deposit two lacs more within a period of two weeks from today.

Taking a holistic view, we dispose of the present petition on the following mutually agreeable terms:-

(a) Petitioner shall positively deposit a sum of ₹ 2,00,000/- (two lacs) with the respondent Bank within a period of two weeks from today;

(b) Petitioner shall make himself available in the office of Respondent No. 2, namely The Authorised Officer,

The State Bank of India, SARB Patna, 2nd Floor, Patna, Main Branch Building, Western Gandhi Maidan, Patna, on 8th of March, 2022 at 10:30 A.M. with a proposal, complete in all aspect, for-(i) re-determining the amount due and payable by the petitioner to the Bank; (ii) seeking waiver of interest on the principal amount due and payable in terms of the policy of the Bank as also the guidelines issued by the Reserve Bank of India;

(c) The Bank shall take a decision on the petitioner's request within a period of eight weeks thereafter;

(d) Such decision has to be in accordance with law; the guidelines issued by the Reserve Bank of India and maintaining parity;

(e) If the petitioner fails to deposit a sum of Rs. Two lacs, as undertaken by him, or repay the amount in terms of the schedule fixed by the Bank on mutually agreeable terms, it shall be open for the Bank to take recourse to the remedies in accordance with law, including sale of mortgaged/hypothecated property.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	