IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3483 of 2023

==

Kumar Vishal Singh Son of Sri Raghunandan Singh, Resident of Village Bithalpur, P.O.- Amari, P.S. and Dist. Jamui.

... ... Petitioner/s

Versus

1. Dakshin Bihar Gramin Bank through Authorized Officer, Regional Office, Jamui, Station Road, Opposite GENXBRIJ Hotel, Near Jhajha Bus Stand, Jamui.
2. Authorized Officer, Regional Office, Dakshin Bihar Gramin Bank, Station Road, Opposite GENXBRIJ Hotel, Near Jhajha Bus Stand, Jamui.
3. Branch Manager, Jamui Branch of Dakshin Bihar Gramin Bank, Jamui.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan Singh, Advocate
For the Respondent/s	:	Mr. Praveen Prabhakar, Advocate
		Mr. Sanjay Kr. Jha, Advocate

==

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 21-04-2023

Heard the parties.

2. The petitioner by way of this writ petition has prayed as under:-

"1. That, this writ petition is being filed on behalf of petitioner above named for the following relief (S):-

I. That, respondents may kindly be restrained from sale of mortgaged assets, mortgaged by petitioner/borrower as security of a Cash Credit facility availed by him under loan account No-old account No.

34010510009119, New account No. 34010510009119, presently an NPA classified account.

II. That, petitioner further prays for direction upon respondent to accept Rs.375,000/-, i. e.25 % of loan amount from the petitioner, which he is ready to pay just now, and then allow him further one year time whereby petitioner shall repay remaining loan amount along with statutory interest upon the remaining loan amount.

III. That, petitioner further prays for direction upon the respondents for restraining them from taking any coercive steps either upon the mortgaged house and attached land or upon the petitioner till the extended period of 1 year, as due to said unexpected closure of financial activities, during Covid 19 period petitioner failed to pay back loan amount within the stipulated time, however he is ready to pay back remaining loan amount within the next extended period of 1 year.

IV. That, petitioner further prays for direction upon respondents to supply him calculation chart with detail brake up of principle amount, amount paid back by him till date, rate of interest, amount of interest, etc. forthwith.

V. That, for any other relief (s) for which petitioner is found entitled on the facts of this case and also in the eye of law."

3. In view of the recent judgment passed by the

Supreme Court in **South Indian Bank Ltd. & Ors. Vs. Naveen Mathew Philip & Anr.** and reported in **2023 SCC Online SC 435**, wherein, the Supreme Court has held as under:-

> *"**18.** While doing so, we are conscious of the fact that the powers conferred under Article 226 of the Constitution of India are rather wide but are required to be exercised only in extraordinary circumstances in matters pertaining to proceedings and adjudicatory scheme qua a statute, more so in commercial matters involving a lender and a borrower, when the legislature has provided for a specific mechanism for appropriate redressal."*

4. The writ petition is held to be not maintainable with liberty to the petitioner to approach the concerned D.R.T. If such an application is filed, the D.R.T. is expected to decide the same on merits expeditiously.

(Sanjeev Prakash Sharma, J)

Sachin/-
Item No. 50

AFR/NAFR	
CAV DATE	
Uploading Date	24.04.2023
Transmission Date	