IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8212 of 2023

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Sanjay Kumar, S/o Late Parmeshwar Sah, Resident of Village/Mohalla-Nayatola Jakarpura, P.S- Surajgarha, Distt- Lakhisarai.

... ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar.
2. The Principal Secretary, Department of Home, Government of Bihar.
3. The District Magistrate, Lakhisarai.
4. The General Manager, UCO Bank, Exhibition Road Patna.
5. The Chief Manager, Regional Office, UCO Bank, Patna.
6. The Authorised Officer, UCO Bank Regional Office, Patna.
7. The Branch Manager, UCO Bank, Surajgarha, Distt, Lakhisarai.
8. The Sub-Divisional Officer, Lakhisarai.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Radha Mohan Singh, Advocate Mr. Kumar Kamal Nayan, Advocate
For the U.C.O. Bank	:	Mr. Ranjeet Kumar Pandey, Advocate
For the State	:	Mr. Saroj Kr. Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

2 15-06-2023 Heard Mr. Radha Mohan Singh, learned counsel assisted by Mr. Kumar Kamal Nayan, learned counsel appearing on behalf of the petitioner, Mr. Ranjeet Kumar Pandey, learned counsel appearing on behalf of U.C.O Bank and Mr. Saroj Kumar Sharma, learned AC to AAG-3 for the State.

2. The present writ petition has been filed for the following reliefs:-

"(i) For issuance of writ of certiorari to quash the notice dated

03.06.2023 under SARFAESI Act (Securitization and Reconstruction of Financial Assests and Enforcement of Security Interest Act 2002), issued by the Authorised Officer, UCO Bank, Regional Office, Patna, whereby and whereunder the Authorised Officer UCO Bank has directed the Tilotma Devi and her legal hairs to vacate the land of Tilotma Devi, W/o Parmeshwar Sah, bearing Khata No 67, Khesra No 381, Thana No 19, Thana Surajgarha, Distt- Lakhisarai, Touzi No 358, area 3 dismals as the physical possession of the aforesaid property is going to be held on 06.06.2023.

(ii) For issuance of an appropriate writ(s) to stay the operation part of the Notice dated 03.06.2023 issued by the Authorised officer, Patna.

(iii) For any other relief(s) be granted to the petitioner for which he is found entitled in the facts and circumstances of the case."

3. Mr. Radha Mohan Singh, learned counsel, assisted by Mr. Kumar Kamal Nayan, learned counsel for the petitioner submits that the petitioner is willing to clear all the outstanding amount as calculated by the Bank, which is to be paid by the debtor. He further submits that petitioner is a guarantor and being guarantor, he is ready to deposit Rs. Ten lakh of the

outstanding amount by tomorrow and the rest amount will be paid within a period of one month.

4. This Court, on the undertaken given by the petitioner in open Court in presence of the counsel appearing on behalf of the Respondent-Bank, finds that the petitioner is not reluctant in deliberately not depositing the outstanding amount but the bonafide is shown considering the fact that an offer has been made that by tomorrow Rs. Ten lakh is to be deposited. As per the Bank account, as on date, total outstanding ledger as on 31.05.2023 is Rs. 22,29,653.72 and unapplied interest from 30.11.2019 to 31.05.2023 at the rate of 13.35% is Rs. 17,31,946.13. The Bank has calculated and instructed the learned counsel Mr. Ranjit Kumar Pandey that total outstanding amount as on 31.05.2023 against the debtor is Rs. 39,61,599.85 plus other expenses as applicable.

5. Learned counsel appearing on behalf of the Respondent-Bank submits that the petitioner has shown his willingness to deposit the outstanding amount. The Bank as on date has also not proceeded with the sale notice. Today, he has been informed by the officers of the Bank, orally, that Bank is ready to accept the outstanding amount, if the petitioner deposits the same at once by one time measure.

6. Considering the rival submissions made by the parties as well as the fact that petitioner is ready to deposit outstanding balance amount standing as on 31.05.2023, as per the ledger, is Rs. 22,29,653.72. The Bank has also calculated unapplied interest from 30.11.2019 to 31.05.2023 at the rate of 13.35% amounting to Rs. 17,31,946.13.

7. The petitioner has willingly informed this Court through Mr. Radha Mohan Singh, learned counsel appearing on behalf of the petitioner, that by tomorrow Rs. Ten lakh will be deposited and the remaining amount would be deposited within a period of thirty days from the date of this order.

8. This Court finds that the unapplied interest has been held to be penal in nature and this Court finds that the Bank has not been able to produce any notice before imposing the said unapplied interest to the petitioner as the minimum requirement for the recovery In-charge Officer of the Respondent-Bank was to give notice by following principle of natural justice, the same having not been done yet the petitioner has shown his willingness that petitioner will deposit the entire outstanding amount within a period of thirty days from the date of this order. The respondent Bank must realize the fact that the petitioner should have been given notice before

imposing any penal interest or charging any amount on account of any default having been made from 30.11.2019 to 31.05.2023.

9. At this stage, Mr. Ranjeet Kumar Pandey, learned counsel for the Bank submits that the petitioner has entered into an agreement with an open eyes with the Respondent-Bank and in the said agreement he has willingly agreed to pay unapplied interest and other charges as applicable, therefore, no Notice was required to be issued to the petitioner before calculating the penal interest.

10. Be that as it may, the petitioner must abide by his undertaking given before this Court and he is required to pay the outstanding amount within thirty days. If the petitioner is so advised may approach the Bank authority for waiver or reduction in so far as penal interest is concerned on account of unapplied interest from 30.11.2019 to 31.05.2023, including the other charges as has been informed by the Bank to the petitioner.

11. It is made clear that as on date the Bank has not taken possession of the premises and in case the petitioner clears the entire outstanding dues, the petitioner must be handed over the key and vacant possession of the premises forthwith soon after deposit of the entire amount.

12. With the above observations and directions, the present writ petition stands disposed of.

(Purnendu Singh, J)

Manish/aditya

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