

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25122 of 2013

1. Arvind Kumar Rai ands Anr S/O Sri Ram Chandra Singh Resident Of Village- Gularia Chak, P.O- Pandil, P.S- Kurtha, District- Arwal.
2. Bhagawan Sharan Yadav S/O Late Ganga Bishun Gope Resident Of Village- Mothia, P.O- Nauru, District- Jehanabad.

... .. Petitioner/s

Versus

1. The Zonal Manager State Bank Of India and Ors
2. The Regional Manager, State Bank Of India, Gandhi Maidan, Patna, Bihar.
3. The Manager, S.M.E. Branch Dak Bangalo Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arvind Prasad Singh, Advocate
	:	Mr. Santosh Kr. Sinha-2, Advocate
	:	Mr. Uttam Kr. Mishra, Advocate
For the Respondent/s (SBI)	:	Mr. Namrata Mishra, Advocate

**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA
CHAKRAVARTHY**

ORAL ORDER

13 28-03-2024 The writ petition is filed seeking for direction to direct the respondents to allow the petitioners to continue and function the affairs of *M/s Sarojini & Sarojini Cold Storage Pvt. Ltd., Jehanabad* as the petitioners are ready to make repayment for the outstanding loan amount of Rs. 2,34,32,528.00/- as on 21.03.2013, together with interest thereon, by rescheduling the date to 28 quarterly installments and/or other relief to which the petitioners shall be found



entitled for.

2. The brief facts of the case are that on 02.11.2007, M/s Sarojini Cold Storage Pvt. Ltd. was registered under the Companies Act, 1956 as a Private Limited Company, bearing registration no. U63023, BR 2007 PTC 013252 with Mr. Ambuj Kumar Chaoudhary and Mrs. Sarojini Devi as Directors of the said Company on 02.05.2009. The directors applied for a Term Loan of Rs. 1,80,00,000/- with the respondent State Bank of India for setting up M/s Sarojini & Sarojini Cold Storage Pvt. Ltd. The respondent no. 4, vide letter no. Adv/09-10/445 dated 11.08.2009 informed the cold storage that competent authority has accorded / sanctioned / approval of the loan and other facilities as per Annexure - 1. Clause-8, Annexure-1 stipulates, that in the event of violation / deviation from the Cold Storage, Bank will be within its right to:-

(a) invoke Penal interest provisions.

(b) Withdraw certain facilities and restrict drawings

or.

(c) Call up the entire loan after giving 15 days notice.

3. As far as the repayment for the Term Loan it has been stipulated that it shall be repaid in 28 quarterly installments of Rs. 6.43 lacs and the last installment of Rs.6.39 lacs with the



first installment from 30.09.2010 and the last by 30.06.2017. As far as the Penal interest is concerned. It is stipulated that in case of non-payment of interest / installment, the bank shall charge 2% on the entire outstanding amount for the period of default. Sri Ambuj Kumar Choudhary and Smt. Saroj Devi have executed equitable mortgage to the Bank and also placed gift Deed No. 9955, dated 15.10.1986 for the lands and the house situated at Village – Eraki, whereby an amount of Rs. 1,80,00,000/- was secured.

4. It is specific contention of the learned counsel for the petitioners that the petitioners are not the directors of the company, but they are the shareholders of the said company who were willing to make the entire payment of the outstanding loan amount along with interest, as the directors Mr. Ambuj Kumar Choudhary is no more and Saroj Devi, director has not further made any repayment of the outstanding loan amount. It is also contended that, the bank authorities on 03.12.2010 have extended for repayment of installment, basing on the request made by Sarojini Devi, as per Annexure-2. Further the company on 26.09.2012 has filed an application to Specialized Commercial Branch, Technical Director, Department of Industries, Government of Bihar, Patna.



5. It is also the specific contention of the learned counsel for the petitioners that the directors have not come forward for the repayment of the loan amount and being the equity shareholders they are interested to repay the entire loan amount. Therefore, they have filed the present writ petition seeking direction to the bank to receive the said amount.

6. On the other hand, learned counsel for the respondents Mrs. Namrata Mishra, made her submissions before the Court, contending that the petitioners are not the directors or the managing directors of the company and they have no locus to file the present writ petition for repayment of the outstanding loan amount, which is due by the company.

7. Heard the learned counsel for the petitioners as well as learned counsel for the respondents and perused the entire record. The record do not reveal who is the managing director of the company. In case, one of the director is no more, the other directors have every right to pursue the remedies. As to why the directors are not before this Court, is not known or no specific reasons were assigned in the writ petition. Though the petitioners are the equity shareholders, their fundamental rights are not infringed in any manner, therefore, this Court is of the view that the writ petition itself is not maintainable and it is for



the company and its Managing Directors to approach the concerned bank to avail the specific remedies.

8. With the above said observations, the writ petition stands dismissed it is devoid of merits.

(G. Anupama Chakravarthy, J)

Prakash Narayan /
aditi

U			
---	--	--	--

