

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5001 of 2023

M/s Kulganga Enterprises Private Limited, a Company registered Under the Indian Company Act, having registered Office at Flat No. 406, Shyam Bindeshwar Residency, Sharma Path, Khajpura, Bailey Road, P.S.-Shastri Nagar, District Patna through its Director Santosh Kumar, Male aged about 45 Years, Son of Shri Bhagwan Lal Jha, Resident of Flat No. 122, Jamuna Apartment, Boring Road, Bailey Road, P.S.-Shri Krishna Puri, District-Patna.

... .. Petitioner/s

Versus

1. The Chairman-cum-Managing Director Bank of Baroda (Erstwhile Vijaya Bank), Baroda Corporate Centre, Plot No. C-26, Block-G, Bandra Kurla Complex, Bandra (East). Mumbai-400051.
2. General Manager @ Head MSME Banking Department, Bank of Baroda, Baroda Corporate Centre, C-26, G-Block, Bandra Kurla Complex, Bandra (East). Mumbai-400051.
3. General Manager, Bank of Baroda, Zonal Office, 5th Floor, Anand Vihar, Panchmukhi Mandir, West Boring Canal Road, Patna, Bihar-800001.
4. Regional Manager, Bank of Baroda Regional Office, 5th Floor, Anand Vihar, Panchmukhi Mandir, West Boring Canal Road, Patna, Bihar-800001.
5. Chief Manager, Bank of Baroda, MSME Kadamkuan Branch, Geeta Bhawan, Patna, Bihar-800003.
6. The Authorized Officer, Bank of Baroda MSME Kadamkuan Branch, Geeta Bhawan, Patna, Bihar-800003.
7. The Reserve Bank of India through its Regional Director, South Gandhi Maidan, Patna-800001.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate.
For the Respondent/s : Mr. Vivek Prasad, Advocate.
For the Bank : Mr. Sanjay Singh Thakur, Advocate.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

14 13-05-2024 Heard both the counsels.

2. The present Writ Petition has been filed for the following reliefs:-

“(i) For a writ of certiorari to



quash the letter dated 05.05.2022 issued under the signature of Chief Manager, MSME, Kadamkuan Branch by which the Bank has held the unit to be ineligible for restructuring / revival despite submission of a favourable Techno Economic Viability report by the Consultant and thus the communication is arbitrary and suffers from perversity.

(ii) For a writ of mandamus commanding the respondent no. 1 to 5 to act upon the recommendation made by the Consultant appointed by the respondent to conduct Techno Economic Viability of the unit and to finance the project in terms of the recommendation made by the Consultant and the same is binding on the respondent Bank.

(iii) For a writ of mandamus to hold and declare that all the eight accounts in which funds have been diverted and transferred to finance the project of the company are related accounts and therefore, the Bank should not precipitate the matter by taking coercive actions during the pendency of this writ application as restructuring / revival would entail that all accounts would become standard.”

3. Having regard to the fact that the petitioner has already approached the Debt Recovery Tribunal, Patna vide SA No. 133 of 2021 and the DRT, Patna was pleased to dismiss the said SA vide order dated 26.04.2023. And also having regard to the provisions of Section 18(1) of the SARFAESI Act wherein the petitioner has an alternative and efficacious remedy of filing an appeal before the DRAT, Allahabad. The present writ petition



is disposed of granting liberty to the petitioner to approach the DRAT, Allahabad against the order passed by the Debt Recovery Tribunal, Patna in SA No. 133 of 2021 dated 26.04.2023. This Court has not gone into the merits of the case and leaving all issues to be agitated before the DRAT, Allahabad. If any appeal is filed, the DRAT shall consider the grounds raised by the petitioner and pass a reasoned order.

5. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

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