

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11335 of 2023

Vaishnavi Super Sales Pvt. Ltd. having its registered office at Main Road, Kankarbagh, Patna, and Corporate Identity Number is U36100BR2012PTC018772 through its Director Vikash Kumar Singh, S/o Umeshwar Prasad Singh aged about 45 years, Resident of Shilawart, North S.K. Puri, Boring Road, Patna.

... .. Petitioner/s

Versus

1. Punjab National Bank through its Chairman and Managing Director, Head Office, Plot No. -4, Sector-10, Dwarka, New Delhi-110075.
2. Chairman and Managing Director, Punjab National Bank, Head Office, Plot No. -4, Sector-10, Dwarka, New Delhi-110075.
3. General Manager, SASTRA Division, Punjab National Bank, Head Office, Plot No. -4, Sector-10, Dwarka, New Delhi-110075.
4. Chief Manager, Punjab National Bank, New Market Branch, Maharaja Complex, Fraser Road, Patna-800001.
5. Branch Manager, Punjab National Bank, having its branch at Bihar Bar Council Building, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Siddharth Prasad, Advocate Mr.Sunit Kumar
For the Respondent/s	:	Mr.Mritunjay Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 26-02-2024

1. The petitioner being aggrieved by the order dated 10.01.2023 passed by the Presiding Officer of the Debts Recovery Tribunal, Patna (hereinafter referred to as the “D.R.T.”) has filed the present writ application by which the petitioner has been debarred from filing written statement in the Original Application No. 379 of 2022 filed by the respondents / Bank before the D.R.T. for recovery of the loan amount.

2. The petitioner is a private limited company, registered



under the Companies Act, 1956 and was sanctioned and disbursed a loan of Rs. 90,00,000/- in the year 2012.

3. Learned counsel for the petitioner submits that due to intervening Covid -19 pandemic the loan in question became N.P.A. on 29.06.2021 and for recovery of the loan amount the Bank filed O.A. No. 379 of 2022 before the D.R.T. The petitioner was not knowing about the filing of the O.A. before the D.R.T., however, notice was published in newspaper on 26-11-2022 by the D.R.T. in the aforesaid O.A. No. 379 / 2022 requiring the petitioner to appear before the D.R.T. within one month from the date of paper publication of notice and / or on specific date i.e. 07.12.2022 at 10:30 A.M.

4. Learned counsel submits that pursuant to the notice, the petitioner entered appearance on 07.12.2022 i.e. the date fixed, through its counsel namely, Mr. Sunit Kumar. The petitioner / defendants were directed to file written statement fixing the next date of hearing on 10.01.2023. On 10.01.2023, written statement was not filed and further two weeks time was sought. Learned D.R.T. taking note of the fact that statutory period for filing of written statement has expired, debarred the petitioner / defendant from filing its written statement. The prayer for recalling the impugned order dated 10.01.2023 has also been



rejected on 13.07.2023.

5. Learned counsel while challenging the impugned order submits that the order debarring the petitioner from filing written statement does not given any reason and the same is a cryptic order, however, in the counter affidavit a stand has been taken by the Bank that petitioner failed to appear within one month from the date of publication of notice and taking into consideration the date of publication of notice the petitioner failed to file its written statement within the statutory period of forty five days. He next submits that in the notice issued by the D.R.T. option was provided either to appear within thirty days from the date of notice or on 07.12.2022. The petitioner in response appeared on 07.12.2022 i.e. the specific date provided in the notice. From 07.12.2022 till passing of the impugned order, forty five days time did not expire.

6. Learned counsel further submits that from 07.12.2022 till 10.01.2023 when the prayer was made for short adjournment for filing written statement only thirty three days time had expired and the petitioner had still twelve days time left for filing written statement. Petitioner undertakes to file written statement within a period of one week from today.

7. On the other hand, learned counsel for the Bank



submitted that as per Section 19(5)(i) of the Recovery of Debts and Bankruptcy Act, 1993 thirty days time has been allotted to file written statement from the date of service of notice and the notice was served upon the petitioner on 26.11.2022 i.e. the date of publication of notice.

8. I have heard learned counsel for the parties. Upon perusal of the notice published by the D.R.T. it shows that defendant was required to appear within thirty days from the date of publication of notice (i.e. 26/11/2022) and / or specific date provided in the notice on 07.12.2022.

9. It is an admitted position that the petitioner appeared before the D.R.T. on 07.12.2022 for the first time and sought time to file written statement. As per statutory provision, thirty days time can be extended up to forty five and the time has to be counted from the date of service of notice. From perusal of the screen shot annexed with the writ petition regarding service of notice it appears that the website of DRT shows that on 07.12.2022 the case was at the service stage meaning thereby after appearance of the petitioner on 07.12.2022 the service of notice through substituted service got completed and from that date the petitioner is entitled to file written statement within a period of forty five days. On 10.01.2023 when the matter was



taken up, the petitioner had still twelve days time to file written statement but the D.R.T. has debarred the petitioner from filing of written statement without taking note of the fact that specific date of 7.12.2022 has been provided in notice published in the paper.

10. Accordingly, I find force in the argument of learned counsel for the petitioner that the statutory time of forty five days had not expired on 10.1.2023. The argument of learned counsel for the Bank is not acceptable for the reason that paper publication gave two options to the defendant to either appear within one month from the date of publication or on the specific date 07.12.2022.

11. In the result, the writ application is allowed.

12. The impugned order dated 10.01.2023 passed in O.A. No. 379 of 2022 is set aside and the petitioner is given liberty to file written statement positively within a period of ten days from today.

praful/-AFR

(Anil Kumar Sinha, J)

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	28-02-2024
Transmission Date	NA

