IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16176 of 2022

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Pramod Kumar Jaiswal Son of Damodar Prasad Jaiswal Resident of Ram Mohini Chowk, Purani Hat, P.S.- Sadar, District- Purnea.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Finance Department, Bihar, Patna.
2. The State Bank of India, through its Asstt. General Manager, SARB, State Bank of India, 2nd Floor, Patna Main Branch Building, West Gandhi Maidan, Patna- 800001.
3. The Chief Manager, SARB, State Bank of India, Main Branch Building, Gandhi Maidan, Patna- 800001.
4. The Branch Manager, State Bank of India, Branch AMY, Gulab Bagh, P.S.- Sadar, District- Purnea.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amit Kumar Anand, Adv.
For State Bank of India	:	Mr. Santosh Kumar Singh, Adv
For the Respondent/s	:	Mr. Sarvesh Kumar (Gp24)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT
Date : 30-04-2024

Heard the learned counsel for the parties.

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

> *"(i). For issuance of an appropriate writ, order or direction directing and commanding the respondents to release/return immediately without any further delay the Truck of the petitioner bearing Registration No. BR 11 L-6884, Model No. 3118 C.*
>
> *(ii) For issuance of an appropriate writ directing and commanding the respondents to compensate the petitioner for the Truck of the petitioner which for the period the respondents have not/are not returning the aforesaid Truck of the petitioner.'*
>
> *(iii). For any other relief/reliefs of which the petitioner is legally entitled to."*

3. Learned counsel for the petitioner has stated that he has purchased a truck bearing No. BR-11-L-6884 which

was mortgaged to the Bank for a term loan of Rs. 19.45 lakhs. That in the year 2007 due to some financial difficulties, the petitioner could not pay the monthly EMI. Thereafter, the petitioner has approached the Stressed Assets Recovery Branch, State Bank of India and as per the compromise settlement reached between the petitioner and the Bank, the petitioner has deposited the entire due amount to the credit of the loan account. That in the year 2020, the Assistant General Manager, Stressed Assets Recovery Branch has issued a 'No Dues Certificate' in favor of the petitioner. Learned counsel has stated that after discharging the entire loan amount due to the Bank, the petitioner has been approaching the Bank authorities for return of the truck which was seized by the Bank in the month of November, 2018. However, the authorities are not paying any heed to his request therefore, left with no other alternative, the petitioner had to approach this Hon'ble Court by way of the present CWJC.

4. *Per contra*, the learned counsel appearing on behalf of the respondent-Bank has stated that the petitioner along with his other family members have altogether taken five loans and all the loan accounts were declared as NPAs

due to non payment of the monthly EMIs. Learned counsel for the respondent-Bank has stated that besides, the truck which is the subject matter of the present writ petition, the petitioner had purchased several other trucks under five different loan accounts. As the monthly equated installments were not paid in time, the loan account of the petitioner was classified as NPA. Thereafter, necessary steps under the SARFAESI Act, 2002, have been initiated against the petitioner and his family members for recovery of the overdue loan amounts. That the Bank has sold the truck on 05.03.2019 for a sum of Rs. 4.65 Lakh and the sale proceeds have being appropriated to the credit of the loan account. That there was an outstanding due loan amount of Rs. 163 lakhs under the five loans that were taken in the name of the petitioner and his other family members. The petitioner has approached the Bank on 03.10.2020 for compromise and offered to pay a sum of Rs. 1.05 Crores and in that context, the one time settlement was reached between the petitioner and the Bank. That after the payment of the amount under the OTS scheme the petitioner was issued the ‘No Due Certificate’ to enable the petitioner to take fresh loans or start business afresh. But not for any other purpose, the petitioner was aware that the truck was sold on 05.03.2019 itself. Further, it is stated that the petitioner has filed the Misc. Case No. 122 of 2022 in the Court of the Chief Judicial Magistrate, Purnea for the very same relief as sought for in the present writ petition. The Chief Judicial Magistrate, Purnea had dismissed the case on 30.08.2022 holding that the auction of the truck was in accordance with the provisions of the Act and the said order has become final.

5. A perusal of the loan agreements entered between the petitioner and his family members and the Bank reveal that petitioner has obtained various loans. In the counter-affidavit filed by the respondent Nos. 2 & 4, the details of the loans taken by the petitioner and his family members is given:-

Date of sanctioned	**Borrower's Name**	**Amount (Rs. In Lacs)**
09.08.2012	M/s Ajeet Kumar	15.00 Lacs
14.09.2012	Sri. Pramod Kumar Jaiswal	19.45 Lacs
05.12.2013	Sri. Pramod Kumar Jaiswal	26.50 Lacs
27.03.2014	Shri Pramod Kumar Jaiswal	42.00 Lacs
30.08.2013	Satish Kumar Jaiswal	22.50 Lacs
16.09.2015	Satish Kumar Jaiswal	50.00 Lacs
18.03.2015	M/s Shristi Traders	30.00 Lacs

6. The factum of taking loans on detailed above has not been denied by the petitioner either by way of any

rejoinder or even at the time of arguments when queried by this Court. Further, as seen from the record, the Misc. case filed by the petitioner before Chief Judicial Magistrate, Purnea was dismissed on 30.08.2022 and the relief sought in the said case is similar to the one sought for in the present writ petition. After perusing the documents filed by the respondent-Bank, this Court has to necessarily come to a conclusion that the petitioner has filed the present CWJC only to take advantage of the 'No Dues Certificate' issued by the Bank authorities. Under normal circumstances, this Court would have imposed exemplary costs on the petitioner for trying to mislead this Court and also for suppression of the material facts but the Court is refraining from doing so. This Court does not find any merit in the present writ petition which warrants any interference by this Court and the same is accordingly dismissed.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.05.2024.
Transmission Date	N/A