

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.252 of 2024

In

Civil Writ Jurisdiction Case No.11785 of 2023

M/s Milan Enterprises Dariyapur, Bari Road, Patna - 800004, through its Proprietor Md. Naseem, Son of Late Abdul Shakoor, Bari Road, Dariyapur, Arya Kumar Road, P.S.- Pirbahore, District- Patna, Bihar 800004.

... Petitioner

Versus

1. Sri Dinesh Kumar Khar Son of- Not Known, Chairman, State Bank of India, State Bank Bhawan, Madame Cama Marg, Mumbai - 400021.
2. The Regional Manager, State Bank of India, Regional Business Office 1, Administrative Office, J.C. Road, Patna - 800001.
3. The Chief Manager, State Bank of India, Govind Mitra Road Branch, Govind Mitra Road, P.S.- Pirbahore, Patna- 800004.
4. Rajiv Kumar, S/o- Nawal Kishore Prasad, Authorized Officer-cum-Chief Manager, State Bank of India Stress Assets Recovery Branch (SARB) 2nd Floor Patna Main Branch Building, W/o- Gandhi Maidan, Patna- 800001.

... Opposite Parties

with

Civil Writ Jurisdiction Case No. 11785 of 2023

M/S Milan Enterprises Dariyapur, Bari Road, Patna-800004, through its proprietor Md. Naseem, aged about 67 years(M), Son of Late Abdul Shakoor,R/o Moh- Bari Road, Dariyapur, Arya Kumar Road, P.O.- Bankipur, P.S- Pirbahore, District- Patna, Bihar 800004.

... Petitioner

Versus

1. The Chairman, State Bank of India State Bank Bhawan, Madame Cama Marg, Mumbai - 400021.
2. The Regional Manager, State Bank of India, Regional Business Office 1, Administrative Office, J.C. Road, Patna - 800001.
3. The Chief Manager, State Bank of India, Govind Mitra Road Branch, Govind Mitra Road, P.S. - Pirbahore, Patna -800004.
4. The Assistant General Manager, State Bank of India, Stressed Assets Recovery Branch (SARB) 2nd Floor, Patna Main Branch Building, W/o Gandhi Maidan, Patna 800001

... Respondents

Appearance :

(In both the cases)

For the Petitioner : M/s Dr. Binay Kumar Singh, Amit Singh & Alok Ranjan, Advs.
For the Opposite Parties : M/s A.K. Sharan, Prabhat Kumar Sharan & Hemant Kumar Sharan, Advs.

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



15 23-04-2025

Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

“i. For quashing the communication dated 27.10.2022 having been issued by respondent no.4 in consideration of various representations /letters of the petitioner pending with respondent no.3, the lending branch, in the teeth of the judgement dated 14.09.2022 passed by Hon'ble Division Bench in C.W.J.C. No. 12934 of 2022 whereby and whereunder the respondents therein were directed to consider and decide those representations in accordance with law and not to take coercive action till then.

ii. For holding that communication dated 27.10.2022 issued by respondent no.4 is defiantly in the breach of RBI guidelines particularly on NPA, acceptance of coins as deposits/transactions, restructuring unit as covid relief FITL/WCTL during Pandemic etc.

iii. For holding that classification of account as Non Performing Asset (herein after called NPA) is the causa causans for igniting provisions under Sarfaesi Act and therefore enforcement of Sarfaesi proceedings under section 13(2) dated 08.12.2022 on erroneous classification of account is liable to be set aside.

iv. For holding that the earlier date of NPA which was 28.05.2022 and the revised date of NPA which is



07.05.2022 are both erroneous and in derogation of RBI guidelines.

v. For any other relief/reliefs for which the petitioner may be found entitled to in the facts and circumstances of this case.”

3. The case of the petitioner is that Respondent-Bank without following the guidelines or the circulars issued by the Reserve Bank of India as well as the Ministry of the Micro Small and the Medium Enterprises has classified the account of the petitioner as Non Performing Asset. Learned counsel has stated that without any application of mind or without adverting to the said guidelines, the Respondent-Bank has in a unilateral manner classified the account of the NPA and has proceeded with the account of the petitioner under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (hereinafter referred to as, ‘the Act’). Counsel has stated that the very act of the Respondent-Bank declaring the account of the petitioner as NPA is not in consonance with the provision of the law, facts of the case and the guidelines issued by the Reserve Bank of India and therefore the same has to be set aside.

4. Admittedly, in the present case the notice dated



05.07.2022 issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act was withdrawn by the Respondent-Bank vide letter dated 27.10.2022 (Annexure P/13 to C.W.J.C. No. 11785 of 2023) and subsequently a fresh notice under Section 13(2) of the Act, dated 08.12.2022 (Annexure 26 series to the supplementary affidavit filed in C.W.J.C. No. 11785 of 2023) was issued by the Respondent-Bank to which the petitioner has already filed his objections. Thereafter orders were passed under Section 13(3-A) of the Act by the Bank on 09.01.2023. Subsequently it is stated by the learned counsel for the petitioner that the authorities have issued notice under Section 14 of the Act for taking possession of the subject property. In the present CWJC the petitioner has not stated that he has approached the Debts Recovery Tribunal, Patna, by filing S.A. No. 150 of 2023 challenging the issuance of the notice under Section 13(2) of the Act and also for classifying the account of the petitioner as Non Performing Asset this fact has not been denied by the counsel. Though the learned counsel has tried to impress upon this Court on merits of the case, classifying the accounts of the petitioner as Non Performing Asset, however, it is to be noted that once the petitioner has approached the Debts Recovery Tribunal,



Patna, seeking redressal of his grievance and challenged the orders passed under Section 13(3-A) the notice under Sections 13(2) and 14 of the Act and also the classification of the accounts as Non Performing Asset he has to avail the final outcome of the same. Further, the petitioner has filed the present CWJC without disclosing the above and on this ground also the CWJC is liable to be dismissed.

5. Having regard to the above this Court is not inclined to entertain the present Writ Petition and the same is dismissed accordingly. The Debts Recovery Tribunal, Patna, is directed to proceed with S.A. No. 150 of 2023 and pass necessary orders on merits after giving opportunity of hearing to both the parties.

6. With the above directions the Writ Petition (C.W.J.C. No. 11785 of 2023) stands disposed of.

7. Having regard to the fact that the orders passed in C.W.J.C. No. 11785 of 2023, the M.J.C. No. 252 of 2024 stands closed.

(A. Abhishek Reddy , J)

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