

(2022) 02 PAT CK 0021

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 712 Of 2022

Arun Kumar Agrawal

APPELLANT

Vs

Punjab National Bank

RESPONDENT

Date of Decision: Feb. 3, 2022

Acts Referred:

- Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 - Section 13(3A), 13(4)

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: Abhishek, Subhen Sarkar, Kumar Priya Ranjan

Final Decision: Disposed Of

Judgement

Petitioner has prayed for the following relief(s):-

(a) For setting aside the Notice dated 08.06.2021 issued to the Petitioner by the Respondent Bank under Section 13(4) of the SECURITISATION

AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT (hereinafter called as

SARFAESI ACT) ignoring the fact that Representation under Section 13(3A) of the Act is pending and Petitioner is ready to deposit the Loan

Amount.

(b) For stay and effect of the Notice dated 16.12.2020 till the decision on the Representation dated 24.11.2020 submitted by the Petitioner before the

Respondent bank under section 13(3A) of the SARFAESI ACT or till the decision of present writ application.

(c) For a direction to the Respondents to take steps for fixation of installment of loan amount in view of the fact that Petitioner is ready to pay the amount and was suffering from major illness which was the reason behind nonpayment of loan amount within a period fix by Respondent Bank.

(d) For grant of any other relief or reliefs in view of the fact and circumstances of the present case as well as on the fact that the Petitioner is ready to deposit the loan amount within a reasonable period of time.

On 20.01.2022, we have passed the following order:-

Shri Kumar Priya Ranjan, learned counsel appearing on behalf of the respondent Bank, under instructions from the Chief Manager of the respondent Bank, states that despite the conduct of the petitioner, Bank is ready and willing to have the matter amicably resolved, subject to the petitioner further establishing his bona fides by depositing some amount within a period of one week from today. Also, petitioner has to increase his offer with regard to the waiver of interest. In any case, he has to pay the cost incurred by the Bank for initiating proceedings before different foras.

Also, the petitioner must undertake to withdraw the Civil Suit filed by one of the family members.

Shri Kumar Priya Ranjan, learned counsel further states that as on date petitioner is liable to pay a sum of ₹1 crore 91 lacs (Principal amount plus interest accrued thereon till January, 2022).

Learned counsel for the petitioner states that his client is ready and willing to pay a sum of ₹1 crore 51 lacs in six equal monthly instalments, plus the interest which would accrue thereupon, from today onwards.

We find that the mismatch is only of ₹40 lacs and the amount of litigation charges/miscellaneous charges incurred by the Bank.

We notice that the parties have been continuously litigating before different foras, and in our considered view, it would be only prudent for them to arrive at an amicable settlement, more so in view of the petitioner's stand taken before this Court, of not only undertaking to repay the amount in equal instalments, but also in default whereof, liable to be held up for having violated the orders passed by this Court, and thus committed contempt.

We are of the view that at this point in time, the Bank would be in a position to recover the entire amount for which they have been litigating over a

period of time.

Let the parties ponder over their respective offers.

On their request, matter is adjourned.

List this case on 3rd of February, 2022.

In the meanwhile, to establish his bona fides, petitioner shall further positively deposit a sum of ₹10 lacs with the respondent Bank.

Learned counsel for the petitioner states that this shall positively be done on or before 25th of January, 2022.

We clarify that the deposit of the amount shall be subject to the outcome of the present petition and without prejudice to the respective rights and contentions of the parties.

We are passing the said order only for the reason that at this point in time, the Debt Recovery Tribunal is not functional, for none stands appointed as a Presiding Officer.

We welcome the suggestion made by Shri Kumar Priya Ranjan, learned counsel appearing on behalf of the respondent Bank that the petitioner can sit with the Chief Manager of the respondent Bank for resolution of the disputes on 27th of January, 2022.

Learned counsel for the petitioner states that petitioner shall make himself available in the office of the said officer on 27th of January, 2022.â€

In terms thereof, petitioner deposited a sum of Rs. 10 lacs.

Petitioner, through learned counsel, reiterates his request for (a) waiver of interest of Rs. 40 lacs and (b) repayment of remaining amount of Rs.

1,41,00,000/- (Rupees one crore forty one lacs only) in six equal monthly installments.

Shri Kumar Priya Ranjan, learned counsel appearing on behalf of the respondent-Bank states that insofar as the issue of waiver of interest is concerned, it is for the authority to consider and as such, petitioner may approach the Respondent No. 2, namely, The Chief Manager Punjab National Bank. Katihar Circle Officer, Katihar giving a concrete proposal in that regard. Insofar as repayment of amount in installments is concerned, obviously, petitioner has to pay interest on the said amount.

We find the suggestion to be acceptable as such, as mutually agreed upon, we dispose of the present petition in the following terms:-

(i) petitioner shall make himself available in the office of the Respondent No. 2 namely, The Chief Manager Punjab National Bank. Katihar Circle

Officer, Katihar, on 14.02.2022 at 10:30 A.M. when a proposal complete in all respect, shall be submitted for both waiver of interest as also

repayment of the amount (principal plus interest) in equal monthly installments, spread over a period of six months;

(ii) We are sure that the respondent No. 2 shall take a decision accounting for all factors, including the prevalent economic conditions and hardship

having arisen out of current pandemic Covid-19;

(iii) Such decision has to be taken keeping in mind the principle of parity as also the guidelines and directions issued by the headquarters of the Bank

and the Reserve Bank of India;

(iv) The decision be communicated to the petitioner within a period of three weeks;

(v) Till the time proposal is pending with the authorities, no coercive action shall be taken against the petitioner;

(vi) Liberty reserved to the parties to take recourse to such remedies are otherwise available, should the need so arise subsequently;

(vii) However, we are hopeful that with the intervention of the respondent Bank, the matter would be resolved amicably.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.