(2022) 02 PAT CK 0049

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 19931 Of 2021

M/S Balaji Polly — APPELLANT

Vs

Uco Bank — RESPONDENT

Date of Decision : 15-02-2022

Acts Referred:

Security Interest (Enforcement) Rules 2002 — Rule 8(2A)
Securitisation And Reconstruction Of Financial Assets And Enforcement Of Securities Interest Act, 2002 — Section 13(3A), 13(4)

Citation : (2022) 02 PAT CK 0049

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

Bench : Division Bench

Advocate : Suraj Samdarshi, Avinash Shekhar, Vijay Shanker Tiwari, Piyush Ranjan, Sheela Sharma

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

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

â??1(i) To issue an appropriate writ order or direction in the nature of certiorari for quashing the notice of e-auction dated 30.10.2021 (Annexure 5) in

relation to the properties of the Petitioner more particularly described at serial no. 3 of the e-auction notice dated 30.10.2021.

(ii) To issue an appropriate writ order or direction in the nature of certiorari for quashing the possessing notice dated 18.08.2021 (Annexure 6) issued

under section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest 2002 (hereinafter referred to as

â??SARFAESI Actâ??) in relation to the properties of the Petitioner.

(iii) To declare that action of Respondent Bank taking possession of the properties of the petitioner under section 13(4) of the SARFAESI Act without

deciding the representation of the petitioner under section 13(3-A) of the SARFAESI Act and without serving notice to the petitioner under Rule 8(2-

A) of the Security Interest (Enforcement) Rules 2002, is bad in law.

(iv) To declare that the action of Respondent Bank to put up on auction sale the properties of the Petitioner, is illegal and not in accordance with law.

(v) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.â??

We are entertaining the present petition in view of the fact that at this point in time, the Debt Recovery Tribunal is not functional on account of non-

appointment of Presiding Officer.

Learned counsel for the petitioner states that petitioner is ready and willing to resolve the dispute by approaching the respondent Bank within a period

of two weeks from today with a proposal to fix the modalities for repayment of the amount due and payable, in equal monthly instalments, spread over

a period of six months and/or waiver of the component of interest in terms of the policy of the Bank as also the guidelines issued by the Reserve Bank

of India.

We are satisfied about the petitionerâ??s bona fides of settling the matter with the respondent Bank.

Additionally, petitioner undertakes to deposit a sum of ☐ 10 lacs with the respondent Bank within a period of two weeks, out of which Rs. ☐ 5 lacs will

be deposited with the respondent Bank within a period of seven days from today and the other ☐ 5 lacs will be deposited within a period of seven days

thereafter.

As such, we dispose of the present petition on the following mutually agreeable terms:-

(a) Petitioner shall make himself available in the office of Respondent No. 3, namely the Branch Manager, UCO Bank, Patliputra Industrial Area

Branch, Alpna Market, Patna 800013 on 22nd of February, 2022 at 10:30 A.M. with a proposal, complete in all aspect, for-(i) re-determining the

amount due and payable by the petitioner to the Bank; (ii) the period within which the remaining amount shall be deposited by the petitioner to the

Bank, which is in the present case is six equal monthly instalments; (iii) seeking waiver of interest as per the policy of the Bank as also in terms of guidelines issued by the Reserve Bank of India;

(c) The Bank shall take a decision on the petitionerâ??s request within a period of four weeks thereafter;

(d) Such decision has to be in accordance with law; the guidelines issued by the Reserve Bank of India and maintaining parity;

(e) Till such time the decision is taken by the Bank, status quo as on date shall be maintained and no coercive action shall be taken against the

petitioner, including putting the property in question on sale;

(f) If the petitioner fails to repay the amount in terms of the schedule fixed by the Bank on mutually agreeable terms, it shall be open for the Bank to

take recourse to the remedies in accordance with law, including sale of mortgaged/hypothecated property;

(g) Should the need so arise, petitioner shall be at liberty to take recourse to such other remedies as are available in accordance with law;

Petition stands disposed of in the aforesaid terms.

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

