

**HIGH COURT OF TRIPURA**

**\_A\_G\_A\_R\_T\_A\_L\_A\_**

**WP(C) No.664 of 2024**

Sri Tapan Dey Roy and Another

.....Petitioners

**\_V\_E\_R\_S\_U\_S\_**

The UCO Bank & Others

.....Respondents

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For Appellant(s) : Mr. C. S. Sinha, Advocate.

Mr. A. K. Pal, Advocate.

For Respondent(s) : None.

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**HON'BLE MR. JUSTICE T. AMARNATH GOUD**

**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**\_F\_I\_N\_A\_L\_O\_R\_D\_E\_R\_**

**21.10.2024**

Heard Mr. C. S. Sinha, learned counsel and Mr. A. K. Pal, learned counsel appearing for the petitioners. None appears for the respondents.

[2] The present petition has been filed under Article-226 of the Constitution of India for issue of writ of certiorari declaring E-auction sale notice dated 05.09.2024 sale of immoveable property described in the notice issued by the authorized officer, UCO Bank, Agartala main branch.

[3] The petitioners have prayed for the following reliefs:

“a. Admit this petition.

b. Call for the records.

c. Issue writ in the nature of certiorari calling upon the respondents to show cause as to why the e-auction sale notice dated 05.09.2024 should not be set aside and quashed.

d. Issue writ in the nature of mandamus calling upon the respondents to show cause as to why the petitioners should not be given opportunity of settlement as regards his loan with the respondent bank which he made already by letter dated 11.10.2023.

e. Pass an interim order staying the operation of e-auction sale notice dated 05.09.2024 pending disposal of the writ petition.”

[4] The facts in brief are that the petitioner No.1 took a loan of Rs.50,00,000/- for running a business, namely, M/s Sourav Enterprise. Petitioner No.2 is the guarantor of that loan. During COVID period the transaction run under CC Account went a bit irregular. In the year 2023, sale notice was given for the sale of his secured assets on 11.10.2023. The petitioner No.1 made a letter before the

concerned respondent asking one year time to meet up the loan money. But, before completion of that one year, the respondent bank has proceeded with e-auction sale notice dated 05.09.2024 and this is completely illegal and arbitrary on the part of the respondent.

[5] Hence, the present petition has been preferred before this Court by the petitioners for redress.

[6] Having gone through the averments made in the petition and arguments made by the counsel for the petitioners, this Court is of the view that in the year 2016 the petitioner No.1 has taken a loan amounting to Rs.50,00,000/- from the respondent bank for running a business with the public money through the bank and now it is 8 years and only Rs.8,00,000/- has been paid to the respondent bank. During COVID period the government of India has given certain instructions which the banker has to follow and everyone was protected under those certain guidelines. In the affidavit or in the letter submitted by the petitioner nothing has been uttered regarding how much money has been taken or how much is due till date and whatever demand has been made by the respondent is disputing because there is discrepancy and can be settled amicably.

[7] Under Article-226 the Court cannot interfere with the same as the SARFAESI Act is very technical in this regard. There is no provision that the bank manager is having bounded duty to act upon the request. The petitioner is not bona fide that this Court can interfere with the same or grant reliefs as sought for. It has also not been uttered that the respondent bank has violated any provisions of law. We are of the view that the petitioner has not appeared before this Court with clear hands and thus, the prayer as sought for cannot be entertained.

[8] It is seen from the record that on 11.10.2023 the petitioner has submitted a letter to the respondent bank. In the letter addressed by the petitioner to the respondent-bank he has not indicated how much money to be paid by him or how much has already been paid. When the petitioner obtained loan from the bank which is public money, it is the bounded duty to pay the same as per agreement entered into them. Nowhere, in the affidavit the petitioner has stated that with regard to the amount paid and no statement is enclosed, except the pleadings for sometimes. Learned counsel for the petitioner has not advanced any legal argument only prayed to time for making payment. The petitioner had obtained loan 8 years ago and till

date he has not made any substantial payment and in this regard no proof has been placed before this Court.

[9] The petitioner had reasonable time to initiate legal steps when the proceeding under SARFAESI Act has been initiated. The action of the petitioner in approaching before this Court under Article-226 of the Constitution of India on 21.10.2024 when the matter of auction is scheduled on 27.10.2024 as per letter issued by the respondent-bank dated 22.09.2023, this kind of action of the petitioner cannot be appreciated and thus, the same is devoid of merits and liable to be dismissed. No provision has been violated by the respondent bank or any legal argument has been made before this Court. The petitioner has not taken any appropriate steps for the last couple years. As per the petitioner in 2016 he has taken a loan amounting to Rs.50,00,000/- and in the affidavit nor in the document placed on record there is whisper about the repayment made by the petitioner so far except, prayed for time.

[8] In that view of the matter, the present petitioner stands dismissed. As a sequel, miscellaneous application, pending if any, shall stand closed.

**B. PALIT, J**

**T. AMARNATH GOUD, J**

*A. Ghosh*

