IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20302 of 2014

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Shravan Kumar S/o- Meghu Sao, Director Shiv Sagar Rice Mill Pvt. Ltd., Maniyanwan Road, Deepnagar, Nalanda

.... Petitioner/s

Versus

1. Chief Manager Cum the Authorized Officer, Punjab National Bank, Branch Office-Biharsharif, District- Nalanda
2. Chairman-Cum-Managing Director, Punjab National Bank, HO- 5, Sansad Marg, New Delhi- 110001

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Abhay Kumar Sinha, Adv.
For the Respondent/s : Mr. Kumar Priya Ranjan

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 15-01-2015 Heard learned counsel for the parties.

Having regard to the prayer made in this writ application, relevant portion whereof reads as follows;

"1. -------- for quashing the classification of Accounts of the petitioner as "Non-performing Assets" with effect from 19.08.2014 and for quashing the notice dated 02.09.2014 issued by the Respondent No-1 under section- 13(2) of the SARFAESI ACT, 2002 Calling upon the petitioner to pay entire dues of the Respondent Bank worth of Rs. 03,06,03,216.58 (Three Crore Six Lac Three Thousand Two Hundred Sixteen rupees and Fifty Eight Paisa only) with further interest at the contracted rate will payment in full within sixty days from the date of issuance of this notice, with the only intention of the respondent Bank to ruin the business and grab the landed property of the petitioner in the name of Recovery of Bank Loan by using unfair means and

> *an illegal way in complete violation of directions and guidelines of Reserve Bank of India which is not permissible under SARFAESI Act 2002. The petitioner further prays to quash the pre-possession notice dated 03.11.14 issued by the respondent no-1 stating therein that the bank will take possession of the landed property on 04.12.14 with the help of local police administration which is quite illegal and arbitrary action of the respondent bank."*

this Court is of the considered opinion that the petitioner has a statutory alternative remedy of assailing the impugned order passed by the Bank taking possession of the assets of the petitioner in terms of Section 13(4) of the SARFAESI Act.

The submission of the learned counsel for the petitioner that due to wrong advice, the petitioner could not give reply to the notice under Section 13(2) of the SARFAESI Act or that the declaration of the account of the petitioner as Non Performing Assets was itself illegal being only defence of the petitioner can definitely be gone into by the Debt Recovery Tribunal in exercise of its power under Section 17 of the SARFAESI Act.

That being so, this Court would not find any reason for entertaining this writ application in presence of the statutory alternative remedy.

This application is accordingly fails and is hereby dismissed.

Nothing said in this order, however, will come in the way of the petitioner if he moves the Debt Recovery Tribunal for redressal of his grievance as prayed for in this writ application.

(Mihir Kumar Jha, J)

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