

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2075 of 2013

With

Interlocutory Application No. 2037 of 2015

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Sunita Devi W/O Sri Vinod Mehta C/O Ruby Chiecken Centre, Arya
Kumar Road, Machhuatoli, P.S.- Kadamkuan, P.O.- Bakinpur, Patna-
800004 Petitioner/s

Versus

1. The Authorized Officer, Central Bank of India, Rajendra Nagar Branch,
Patna
2. The Branch Manager, Central Bank of India, Rajendra Nagar Branch,
Patna
3. The Authorized Officer, Central Bank of India, Regional Office, Maurya
Lok, Patna
4. M/S Vijay Enterprises through its Proprietor Vijay Shankar Prasad S/O
Shri Shiv Shankar Prasad R/O Sultanganj, Ashok Rajpath Main Road, P.O.
Mahendru, P.S.- Sultanganj, District- Patna Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramesh Singh, Advocate
For the Respondent Nos. 1 to 3 : Mr. Aditya Sharan, Advocate
Mr. Prabhat Kumar Sharan, Advocate
Mr. Hemant Kumar Sharna, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 25-03-2015

Heard the parties.

The matter at issue in the present writ petition filed under Article 226 of the Constitution of India is action/measures taken by the Secured Creditor i.e. Central Bank of India and its authorized Officers, who are respondent nos. 1 to 3 in the present proceeding, in terms of Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, "SARFAESI Act,").

Interlocutory Application No. 2037 of 2015 has been filed on behalf of the petitioner for stay of sale notice dated 26.02.2015.

Indisputably, against the impugned action/measures taken by the Bank-Secured Creditor in terms of Section 13 (4) of the SARFAESI Act, the petitioner has alternative statutory remedy

under Section 17 of the SARFAESI Act and thereafter, she has further remedy of appeal under Section 18 of the SARFAESI Act, but the petitioner, without exhausting the aforesaid statutory alternative remedies available to her, has filed the present writ petition directly under Article 226 of the Constitution of India. The Hon'ble Apex Court in the case of **United Bank of India Vs. Satyawati Tonton and others [(2010) 8 SCC 110]** has laid down the law in paragraphs 43, 44 and 45 of the aforesaid judgment. The entertainment of the writ petitions at this stage by the different High Courts for exercise of power of judicial review under Article 226 of the Constitution of India has been deprecated in paragraph 55 of the aforesaid judgment.

In view of aforesaid judicial pronouncement, learned counsel appearing on behalf of the petitioner, after some arguments, seeks permission to withdraw the present writ petition with a liberty to approach the learned Debts Recovery Tribunal, Patna in terms of Section 17 of the SARFAESI Act.

Permission is accorded.

The writ petition stands disposed of as withdrawn with the liberty aforesaid. I.A.No. 2037 of 2015 also stands accordingly disposed of.

If such a petition is filed on behalf of the petitioner within a period of four weeks from today, the same shall be considered and decided on its own merit without being prejudiced by rejection of the present writ petition.

(Birendra Prasad Verma, J)

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