

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1484 of 2011

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Satyendra Kumar Singh, S/O Sri Rajeshwar Prasad Singh, Bara Phatak,
West Lohanipur, P.O. & P.S. - Kadam Kuan, District - Patna

.... Petitioner/s

Versus

1. The United Commercial Bank (UCO), Head Office at 18, Russel Street, Kolkata - 700071 through its General Manager
2. The United Commercial Bank (UCO), Zonal Office, 4th Floor, Block-A, Mauryalok Complex, Dakbanglow Road, Patna Through The Zonal Manager
3. The Authorized Officer Cum Chief Officer (Recovery), The United Commercial Bank, Zonal Office, 4th Floor, Block-A, Mauryalok Complex, Dakbanglow Road, Patna
4. The Chief Manager / Branch Manager, United Commercial Bank (UCO), Kankarbagh Branch, Patna
5. Banking Ombudsman, R.B.I. Building, Gandhi Maidan, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar
For the Respondent/s : Mr. Sanjay Kumar
Mr. (Dr.) Anshuman

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 11-05-2015 The matter at issue in the present proceeding is the action taken by the respondent United Commercial Bank and its functionaries/officers under Section 13(4) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, "SARFAESI Act").

The petitioner has filed the present writ petition assailing the validity and correctness of the notice dated 01.12.2010 (Annexure-5), whereby possession has been taken by the respondent Bank over the secured assets in terms of Section 13(4) of the SARFAESI Act.

The matter has been contested by the respondents by filing a detailed counter affidavit and taking a plea that the

petitioner has got an alternative and efficacious statutory remedy under Section 17(1) of the SARFAESI Act before the learned Debts Recovery Tribunal, Patna.

The objection raised on behalf of the respondents appears to be correct in view of the judicial pronouncement made by the Hon'ble Apex Court in the case of **United Bank of India Vs. Satyawati Tondon [(2010) 8 SCC 110]** particularly in paragraph nos.42, 43, 44, 45, 46 and 55.

In view of the law laid down by the Hon'ble Apex Court, as referred to above, the present writ petition is dismissed. However, the petitioner is granted liberty to file an appeal/application under Section 17(1) of the SARFAESI Act, raising all the pleas, which have been raised in the present writ petition.

If such an appeal/application is filed on behalf of the petitioner before the learned Debts Recovery Tribunal, Patna within a period of four weeks from today with a certified copy of the present order, then the learned Debts Recovery Tribunal, Patna shall consider and decide the same on its own merits in accordance with law and shall not dismiss the said appeal/application on the ground of limitation, as under a bona fide legal advice, the present writ petition was filed on 21.01.2011 and that remained pending before this Court till date.

The writ petition stands dismissed with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

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