

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15360 of 2013

With
Interlocutory Application No. 4268 of 2015

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Rajesh Kumar Gupta, Proprietor, M/S Laxmipati Textiles Shop No. 3, 3rd Floor, Rajdhani Market, Bari Path, District - Patna son of Shri Jay Narayan Prasad @ Shri Jay Narayan Sao at present resident of Mohalla - Lodipur, P.S. - Kotwali, District - Patna

.... Petitioner/s

Versus

1. The State Bank of India having its Corporate Centre At Madam Lama Road, Mumbai - 400021 through its General Manager
2. The State Bank of India, Stressed Assets Resolution Centre (SARC), 2nd Floor, Patna Main Branch Building, West of Gandhi Maidan, District - Patna, through the Assistant General Manager
3. Debt. Recovery Tribunal, Patna through its Registrar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kishore, Sr. Advocate
Mr. Rajesh Kumar Pandey, Advocate
For the Respondent/s : Mr. Sanjiv Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 20-05-2015

Heard the parties.

The matter at issue in the main writ petition as also Interlocutory Application No. 4268 of 2015 are the validity and correctness of the orders passed by the learned Recovery Officer in exercise of his powers under the provisions of The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (in short, "1993 Act").

Learned senior counsel appearing on behalf of the petitioner has argued the matter at great length with all force assailing the impugned orders passed by the learned Recovery Officer. However, learned counsel appearing on behalf of the respondent-Bank prays for an adjournment enabling him to seek instruction and file a counter affidavit, but finally both of them

conceded that the orders impugned in the main writ petition as also in Interlocutory Application No. 4268 of 2015 are appealable under Section 30 of the Act, 1993 before the learned Debts Recovery Tribunal, Patna.

In view of the law laid down by the Hon'ble Apex Court in the case of **United Bank of India Vs. Satyawati Tondon** [(2010) 8 SCC 110] particularly, paragraphs 42, 43, 44, 45, 46 and 55 of the said judgment, this Court is of the opinion that the present writ petition at this stage is not maintainable, as the petitioner has an efficacious and alternative statutory remedy under the provisions of 1993 Act itself. It is well settled that before invoking the powers of judicial review under Article 226 of the Constitution of India, the parties must exhaust their statutory alternative remedy.

In above view of the matter, the writ petition as also I.A.No. 4268 of 2015 stand disposed of with a liberty to the petitioner to approach the learned Debt Recovery Tribunal, Patna for grant of appropriate relief with respect to the orders passed by the learned Recovery Officer. If such an appeal (s) is filed on behalf of the petitioner within two weeks from today with a certified copy of the present order, then such appeal (s) shall be considered and decided by the learned Debt Recovery Tribunal, Patna on its own merits and same shall not be dismissed on the ground of limitation in view of the fact that on a bona fide legal advice, the present writ petition was filed before this Court on 07.08.2013 and that remained pending till date. However, the parties shall be at liberty to raise all the issues of fact and law which are available to them before the learned Debt Recovery Tribunal.

The writ petition as also I.A.No. 4268 of 2015 stand finally disposed of with the observations and directions made above.

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(Birendra Prasad Verma, J)