

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11745 of 2010

Madan Mohan Pandey S/O Late K.L. Pandey Permanent, R/O Vill.- Raj Gram,
P.S.- Pandaul, Distt.- Madhubani

.... Petitioner/s

Versus

1. Union of India through the Secretary, Ministry of Finance, New Delhi
2. The Secretary, Ministry of Finance, New Delhi
3. The State Bank of India, through the Branch Manager, Patliputra Branch, Patna
A Bank Constituted Under the State Bank of India Act, 1955 having its Central
Office at Bombay and its Branch Office at Patliputra Colony, P.S. Patliputra,
Distt.- Patna, Bihar
4. Debts Recovery Tribunal, Patna through its Presiding Officer, Patna, Bihar
5. M/S Magnum Electronics (Pvt.) Limited, a Company Registered under the
Companies Act

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

Mr. A. Pandey

For the Respondent/s : Mr. Aditya Sharan

Mr. Prabhat Kumar Sharan

Mr. Hemant Kumar Sharan

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

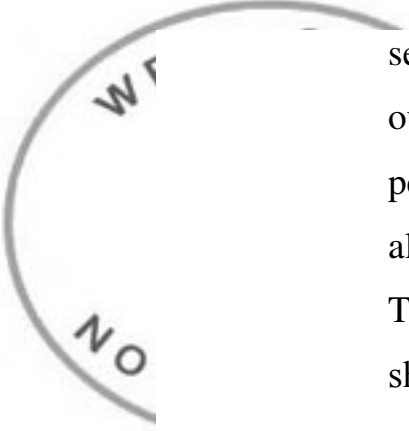
ORAL JUDGMENT

Date: 26-03-2015

Heard the parties.

The petitioner is aggrieved by the order dated 18.08.2009 (Annexure-4) passed by the learned Debts Recovery Tribunal, Patna, whereby the Miscellaneous Application No. 6 of 2004 filed on behalf of the petitioner has been rejected for the reasons recorded there in that order.

Though learned counsel appearing on behalf of the petitioner has raised various issues of facts and law with respect to the validity and correctness of the impugned order dated 18.08.2009 (Annexure-4), but the learned counsel appearing on behalf of the



secured creditor- State Bank of India (respondent no.3) at the very outset has raised the question of maintainability of the present writ petition at this stage on the ground of availability of statutory alternative remedy of appeal to the petitioner in terms of Section 20 of The Debts Due to the Banks & Financial Institutions Act, 1993 (In short, '1993 Act').

After having heard the parties for sometime, 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 paragraph-43, 44, 45 as also paragraph-55 and in view of the judgment and order of this Court in the case of **Jag Narayan Singh v. State Bank of India** [2001(2) PLJR 72], the objection raised on behalf of the respondent no.3 is upheld and the present writ petition filed on behalf of the petitioner is held to be not maintainable at this stage. It is, accordingly, dismissed on the ground of availability of statutory alternative remedy of appeal to the petitioner in terms of section 20 of the 1993 Act.

However, if the petitioner files an appeal in terms of section 20 of the 1993 Act before the learned Debts Recovery Appellate Tribunal within a period of four weeks from today with a certified copy of the present order, then the same shall be considered and decided on its own merit in accordance with law without being prejudiced/ influenced by rejection of the present writ petition and it shall not be dismissed on the ground of limitation, as under the bonafide legal advice the present writ petition was filed before this Court on 26.07.2010 and that remained pending till date. Before the learned Debts Recovery Appellate Tribunal, the parties shall be at

liberty to raise all the issues of facts and law, which are available to them.

(Birendra Prasad Verma, J)

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