

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10009 of 2010

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Bharat Wagon and Engineering Company Limited (A Govt. of India Undertaking), having its Registered Office at Block C, 5th Floor Maurya Lok Complex, Dak Bungalow Road, P.S.- Kotwali, Town And Distt.- Patna through its Managing Director

.... Petitioner/s

Versus

1. The Union of India through the Presiding Officer, Debts Recovery Tribunal, East Boring Canal Road, Patna
2. Punjab National Bank, Branch Office at Jawaharlal Road, Muzaffarpur
3. Ministry of Industry, Government of India Department of Heavy Industries, Vigyan Bhawan, New Delhi, through its Secretary

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar

For the Respondent nos.1&3: Mrs.Kanak Verma

For the Respondent no.2 : Mr. Mahesh Narayan Parbat, Sr.Adv.
Mr.Ved Prakash Srivastava

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 24-03-2015

Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the judgment dated 21.12.2009 (Annexure-2) passed in P.T.Case No.74 of 1998 by the learned Presiding Officer, Debts Recovery Tribunal, Patna, whereby the claim of the respondent Bank has been allowed and the petitioner herein besides other defendant of the aforesaid case have been held liable jointly and severally to pay back the debts of the respondent Bank with pendente-lite and future interest, as indicated in the impugned judgment.

In compliance to the previous orders dated 01.07.2010 as also 26.04.2011, a counter affidavit has been filed on behalf of the respondent no.2. Learned counsel appearing on behalf of the respondent Bank, at the very outset, has raised a 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 under Section 20 of The Recovery of Debts Due to Bank & Financial Institution Act, 1993 (in short Act, 1993). According to him, in view of the judicial pronouncements made by the Hon'ble Apex Court in several cases, the present writ petition should not be entertained at this stage.

In view of the law laid down by the Hon'ble Apex Court in the case of United Bank of India Vs. Satyavati Tondon [(2010) 8 SCC 110] particularly in paragraph 43 and 55, the objection raised by the respondent Bank is upheld. Consequently, the present writ petition is dismissed with a liberty to the petitioner to file an appeal under Section 20 of the Act, 1993.

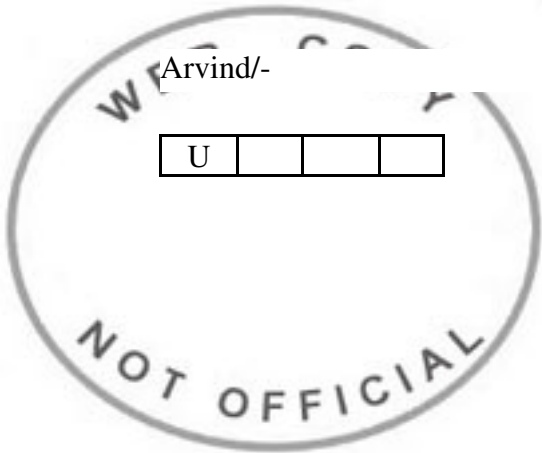
If such an appeal is filed on behalf of the petitioner within a period of one month from today, then the same shall be heard and decided on its own merits, without being prejudiced by the rejection of the present writ petition.

It is further clarified that, if such an appeal is filed on behalf of the petitioner within the aforesaid period of one month from today, then, in that case, the learned Debts Recovery Appellate Tribunal shall take into consideration that on a bonafide legal advise the present writ petition was filed on 30.06.2010 and that remained pending before this Court till date and, therefore, shall not dismiss the aforesaid appeal on the ground of being barred by limitation and the matter shall be decided on its own merits.

The parties shall be at liberty to raise all the issues of facts and law which are available to them.

The interim order of stay passed earlier on 01.07.2010

by a Bench of this Court shall stand vacated.



(Birendra Prasad Verma, J)