IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5155 of 2011

==

Maa Katyayni Mercantile Private Limited, 303 Grand Gulistan, Behind Heera Palace, Dak Bunglow Road, Patna through its Director namely Sanjay Kumar S/O Bhola Prasad Singh Resident Of Mohalla 2/C, New Patliputra Colony, Param Vihar Apartment, P.S. Patliputra, District Patna.

.... Petitioner/s

Versus

1. The Indian Bank through its Chief Manager, Patna Main Branch, West Gandhi Maidan, Patna.
2. The Chief Manager, Patna Main Branch, West Gandhi Maidan, Patna.
3. The Senior Manager, Indian Bank, Patna Main Branch, West Gandhi Maidan, Patna.

.... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar

For the Respondent/s : Mr. Dr. Binay Kumar Singh

Mr. Amit Singh

==

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL ORDER

7 23-06-2015 Heard the parties.

It is the common case of the parties that with respect to the secured assets belonging to the petitioner action(s)/ measures have been taken by the respondent Indian Bank, the secured creditor, and its functionaries under Section 13(4) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (In short "SARFAESI Act"). In the supplementary affidavit filed on behalf of the petitioner, it has further been stated that the respondent Bank has filed two Original Applications being O.A. No. 177 of 2014 and O.A. No. 178 of 2014 before the learned Debts Recovery Tribunal, Patna for recovery of loan amount from the writ petitioner.

Admittedly, against the actions/ measures taken by the respondent Bank under Section 13(4) of the SARFAESI Act the petitioner has got an alternative and efficacious remedy under Section 17(1) of the SARFAESI Act before the learned Debts

Recovery Tribunal, Patna.

In view of the fact that the matters under dispute is sub-judice before the learned Debts Recovery Tribunal, Patna, in the two original applications, referred to above, and further in view of the fact that the petitioner has also got an alternative and efficacious statutory remedy under Section 17(1) of the SARFAESI Act as also in view of the law laid down by the Hon'ble Apex Court in the case of **United Bank of India vs. Satyawati Tondan** *[(2010) 8 SCC 110]*, particularly in paragraph-42, 43, 44, 45 and 55, the present writ petition is not maintainable at this stage before this Court.

However, if any application/ appeal is filed on behalf of the petitioner before the learned Debts Recovery Tribunal, Patna, with respect to the impugned actions/ measures taken by the respondent Bank regarding property in question 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 merit in accordance with law and shall not dismiss the same on the ground of limitation as under the bonafide legal advice the present writ petition was filed on 17.03.2011 and it remained pending before this Court till date.

It is clarified that the parties shall be at liberty to raise all the issues of facts and law, which are available to them with respect to secured assets before the learned Debts Recovery Tribunal, Patna.

The present writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

BTiwary/-

U			