

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4647 of 2011

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M/S Katihar Flour Mills Pvt. Ltd., a Company incorporated under the provisions of the Companies Act, 1956 having its Registered Office at 62, Bentick Street, 2nd Floor, P.S.-Lake, Kolkata-700069 through one of its Directors, Binod Kumar Jeloka, S/O Late Mohan Lal Jeloka, R/O 62, Bentick Street, 2nd Floor, P.S.- Lake, Kolkata-700069

.... Petitioner/s

Versus

1. The Union of India through the Presiding Officer, Debts Recovery Tribunal, Rai Building, Bank Road, Patna
2. The Central Bank of India constituted under the Banking Companies (Acquisition & Transfer of Undertaking) Act, 1970, having its Zonal Office situated at Mourya Lok Complex, Dak Bungalow Road, Patna
3. The Zonal Manager Central Bank of India, Zonal Office, Mourya Lok Complex, Dak Bungalow Road, Patna
4. The Branch Manager, Central Bank of India, Katihar Main Branch, District- Katihar
5. M/S Silverson Tea Co. Pvt. Ltd. having its Office situated at 41, Netaji Subhas Road, 4th Floor, Room No. 404, Kolkata- 700001 (West Bengal), represented through its Authorised Signatory Sri Govind Dalmia

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Agarwal

For the Respondent No.1 : Mrs. Kanak Verma, C.G.C.

For the Respondent No.2 to 4: Mr. Ajay Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 01-07-2015

Heard.

The petitioner, being aggrieved by the order dated 21.12.2010 passed in M.A. No. 11 of 2010 (Annexure-9) by the learned Debts Recovery Tribunal, Patna, has approached this Court in the present proceeding under Article 226 of the Constitution of India.

Learned counsel appearing on behalf of the petitioner submits that the petitioner, being aggrieved by some part of the order dated 06.07.2009 (Annexure-7) passed in M.A. No. 21 of 2009 by the learned Presiding Officer, Debts Recovery Tribunal, Patna, filed the aforesaid M.A. No. 11 of 2010 with a prayer to



review the aforesaid order dated 06.07.2009. However, according to him, without fixing any final date for taking up the aforesaid M.A. for consideration on merit, learned Presiding Officer has dismissed the aforesaid M.A. No. 11 of 2010 by the impugned order dated 21.12.2010 (Annexure-9) without giving the petitioner any opportunity of hearing. Therefore, according to him, on that account alone the impugned order is liable to be set aside and quashed by this Court. It is further contended that while passing the impugned cryptic order, learned Presiding Officer has committed certain errors of record and on that ground also the impugned order is liable to be quashed and the matter is required to be decided afresh in accordance with law.

Learned counsel appearing on behalf of the respondent no.1 as also learned counsel appearing on behalf of the respondent no. 2 to 4 though have opposed the prayer made on behalf of the petitioner, but have not disputed the submissions made by the learned counsel appearing on behalf of the petitioner that before passing the impugned order, opportunity of hearing was not given to the petitioner.

At this stage, it would be relevant to mention here that by order dated 05.05.2011 notice was issued to the respondent no.5, the auction purchaser of the property in question, but in spite of valid service of notice, the respondent no. 5 has chosen not to appear and not to contest this matter.

After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that the matter requires reconsideration and fresh decision in accordance with law by the learned Debts Recovery Tribunal, Patna, as before passing the impugned order dated 21.12.2010, the

petitioner was not given any opportunity of hearing and place its case for review of the order dated 06.07.2009 passed in M.A. No. 21 of 2009.

For the reasons recorded above, the impugned order dated 21.12.2010 (Annexure-9) passed in M.A. No. 11 of 2010 by the learned Presiding Officer, Debts Recovery Tribunal, Patna, is hereby set aside and quashed and the matter is remitted back to the learned Debts Recovery Tribunal, Patna for deciding the aforesaid M.A. No. 11 of 2010 afresh in accordance with law.

The petitioner is hereby directed to appear before the learned Debts Recovery Tribunal, Patna, within a period of six weeks from today with a certified copy of the present order, whereafter learned Debts Recovery Tribunal, Patna, shall take up the aforesaid M.A. No.11 of 2010 for deciding the same in accordance with law and all endeavours shall be made to dispose of the same at an early date.

The writ petition stands allowed to the extent indicated above.

(Birendra Prasad Verma, J)

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