

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8658 of 2014

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M/s Sona Masala Udyog, through its Proprietor, Sita Ram Mahto son of Sri Jagdish Mahto, resident of village- Sikandarpur, P.S.- Muffasil, District- Begusarai

.... Petitioner

Versus

1. The State Bank of India Assistant General Manager, State Bank of India.
2. The Regional Manager, Region-III State Bank of India, R.B.O. Harharmahadeo Chowk, Begusarai
3. The Chief Manager, State Bank of India (Main Branch) Nagar Palika Branch, Begusarai

.... Respondents

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Appearance :

For the Petitioner : M/s. Ajey Kumar and
Binay Kumar Thakur, Advocates
For Respondent Bank : Mr. Sanjiv Kumar, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 13-02-2015

Heard learned counsel for the petitioner and the State Bank of India.

Petitioner seeks quashing of the demand made by the respondent Bank kept at Annexure-9. It appears that the property of the petitioner, which is the borrower of the Bank, was taken over under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Act, 2002 (hereinafter referred to be as “the Act”) and it was auctioned. Thereafter, the petitioner approached this Court by filing C.W.J.C. No.20710 of 2012, which was dismissed as withdrawn with the liberty granted to the petitioner to approach the Debt Recovery Tribunal. The petitioner

preferred S.A. No.121 of 2013 which was disposed of by the Tribunal on 13.9.2013 with following observations and directions :-

“ In view of the rival submissions of the parties, if the applicant wants to retain his property, he is directed to pay the dues of bank and also to pay 9% simple interest and 5% simple penalty on the auction amount and also to pay the SARFAESI Cost and legal cost of Rs.7,000/- within one month. The respondent bank is directed to supply the calculation chart to applicant within 7 days from today and the applicant is to deposit the same within one month from the date of receiving of copy of calculation chart.”

The State Bank of India preferred appeal under Section 18 of the Act which was disposed of vide Annexure-8 dated 13.11.2013. The same was dismissed on the ground that the auction purchaser has not come forward to challenge the order. Thereafter, the Bank served the petitioner with the calculation chart which is kept at Annexure-9. The petitioner again moved before the Debt Recovery Tribunal in M.A. No.438 of 2013 which was disposed of vide order dated 11.3.2014. The petitioner was required to pay the due amount by 25.3.2014, otherwise the Bank was given liberty to proceed in accordance with law. The petitioner could not deposit the amount till 25.3.2014.

That being the situation now this Court cannot go behind that order and examine the genuineness of the calculation chart given by the Bank to the petitioner at this stage. That question was required to be raised by the petitioner before the D.R.T. It does not appear

from the order dated 11.3.2014 that the petitioner had raised this issue at the time of hearing. However, even if assuming that the petitioner had raised such issue before the Tribunal but that was not considered then he should have either moved before the Tribunal itself or the Appellate Tribunal and not before this Court in its writ jurisdiction.

In the facts and circumstances of the case, this Court does not find any reason to intervene into the matter in exercise of discretionary powers under Article 226 of the Constitution of India.

As a result, this writ application is dismissed.

(Dr. Ravi Ranjan, J)

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