IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.215 of 2015

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Devendra Kumar Malakar, son of Sri Bhujangi Kumar Malakar, resident of 399, Jyoti Vihar Colony, Bahadurpur New Zero Mile, Bhagalpur

.... Petitioner

Versus

1. The Syndicate Bank through its Deputy General Manager, Regional Office, Maurya Lok, Patna
2. The Branch Manager, Syndicate Bank, Bhagalpur Branch, Bhagalpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Nawal Kishor Singh

For the Respondent/s : Mr. Sanjiv Kumar.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

2 19-01-2015 Heard learned counsel for the parties as with regard to the following relief prayed in this writ application:

> "a) For issuance of an appropriate writ/order/direction quashing the possession notice dated 26.11.14 issued by Bank under section 13(4) of the SARFAESI Act.
>
> b) For issuance of an appropriate writ/order/direction quashing the notice dated 2.9.2014 issued by the Bank under section 13(2) of the SARFAESI Act.
>
> c) For issuance of an appropriate writ/order/direction commanding the respondents to accept the over due amount till date so as to regularize the loan account."

Admittedly the petitioner had a remedy under the notice under section 13(2) of the SARFAESI Act by way of filing his reply under section 13(3-A) and if he did not do so, that notice cannot be quashed by this Court. As with regard to the action taken by the Bank under section 13(4) of the SARFAESI Act the petitioner had a remedy and in fact has still the remedy before the

Debt Recovery Tribunal in terms of section 17 of the SARFAESI Act.

Learned counsel for the petitioner now submits that the petitioner is prepared to make full payment of admissible and payable amount if opportunity is given to the petitioner for that purpose. The petitioner does not need any leave of this Court because he can definitely approach the authorities of the Bank and get the matter settled.

While this Court has noted all the aforementioned aspects raised in this writ application it cannot shut its eyes towards the submission made by the learned counsel for the Bank that the petitioner has produced the forged document by way of Annexure 3.

Keeping, however, in view this Court is not itself inclined to grant any relief to the petitioner, the remedy for the Bank against the petitioner's filing such a forged letter will be either by way of initiating of a criminal case or taking such other action as may be permissible against the petitioner in law.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

surendra/-

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