

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4222 of 2011

With

Interlocutory Application No.5819 of 2013

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1. Gupteshwar Singh S/O Sri Sheo Mukh Singh, Village - Mirzapur, Ward No. 34, P.O. + P.S. - Sasaram, District- Rohtas
 2. Kalwati Devi W/O Guptashwar Singh, Village - Mirzapur, Ward No. 34, P.O. + P.S. - Sasaram, District- Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through the Districtmagistrate Rohtas at Sasaram
2. The Certificate Officer, Rohtas at Sasaram
3. The State Bank of India through its General Manager, Judges Court Road, Patna
4. The Branch Manager State Bank of India Sasaram Branch, Sasaram Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kr. Sinha
Arvind Kumar

For the Respondent No.1 & 2: Mr. Devendra Kr. Sinha, AAG-2
Mr. Pramod Kumar Sinha, AC to AAG-2

For the Respondent No.3 \$: Mr. Sanjiv Kumar

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 23-06-2015

Heard the parties.

The matter at issue in the present proceeding is the actions/ measures taken by the secured creditor i.e. the respondent State Bank of India (In short ‘the Bank’) and/or 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 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, as the petitioners have an alternative and efficacious statutory remedy under Section 17(1) of the SARFAESI Act

before the learned Debts Recovery Tribunal, Patna.

However, if any application/ appeal is filed on behalf of the petitioners before the learned Debts Recovery Tribunal, Patna with respect to the impugned actions taken by the 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 04.03.2011 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.

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

Interlocutory Application No. 5819 of 2013 stands, accordingly, disposed of.

(Birendra Prasad Verma, J)

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