IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.910 of 2015

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Poonam Devi, wife of Shankar Sah, resident of Mundichak Near Mini Market, Bhagalpur, P.S. Bhagalpur, District Bhagalpur

.... Petitioner

Versus

1. Branch Manager, Bihar Gramin Bank, Admapur, Branch P.S. and District Bhagalpur
2. Authorized Officer, Bihar Gramin Bank, Adampur Branch, P.S. Bhagalpur, District Bhagalpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Kapil Deo Singh, Adv.

For the Respondent/s : Mr. Satya Prakash Tripathy, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

2 27-01-2015 Heard learned counsel for the petitioner as with regard to the following relief prayed in this writ application:

> "That this writ application is for issuance of a writs of certiorari quashing the notice dated 29.1.2014 issued by Branch Manager, Gramin Bank, Bhagalpur, Lawyer Notices dated 21.7.2014 and notice dated 26.7.2014 issued by authorized officer under sections 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 and statement of account for dated 19.8.2014 for the period of 5.3.2011 to 18.8.2014 which are illegal, inoperative, unconstitutional, against Govt. policy in respect of the unemployed citizen of the country, against the Bank regulations and in violation of the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act."

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Having regard to the fact that the petitioner is bound by an inter-party agreement with the Bank and the Bank has invoked its clause of such agreement by asking the petitioner to pay the amount of loan and has also taken steps under section 13(2) of the SARFAESI Act, the remedy of the petitioner cannot be before this Court but only before the Debt Recovery Tribunal.

The petitioner in fact has not even stated that she had filed her reply to the notice under section 13(2) of the Act and therefore, this Court is not now going to examine as to whether she had a bonafide reason to not make such payment. All these aspects ought to have been gone into before the Bank in reply to the notice under section 13(2) of the Act.

That being so, this application is wholly misconceived and is, accordingly, dismissed.

Dismissal of this application, however, will not weigh in the way of the petitioner in approaching the Debt Recovery Tribunal.

(Mihir Kumar Jha, J)

surendra/-

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