

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18735 of 2012

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M/S Kamla Food Processing Industries through its Partner Samoda Nand Tiwary S/O Shree Sita Nath Tiwary, resident of Vishwambharchak, Police Station- Amarpur, District- Banka.

.... Petitioner/s

Versus

1. The Chief Manager Syndicate Bank, Bhagalpur- 812001
2. The Authorised Officer, Syndicate Bank, Patal Babu Niwas, Patal Babu Road, Bhagalpur- 812001
3. The Dy. General Manager, Regional Office, Syndicate Bank, Maurya Towers, 2nd Maurya Complex, Patna.
4. The Chairman Cum Managing Director, Syndicate Bank, H.O.- Manipal- 576014

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Singh Thakur, Advocate

For the Respondent/s : Mr. Sanjiv Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

11 08-05-2015

Heard the parties.

The matter at issue in the present proceeding is the actions/steps taken by the secured creditor i.e. Syndicate Bank and/or its functionaries under Section 13(2) and 13(4) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, “SARFAESI Act,”).

Learned counsel appearing on behalf of the petitioner submits that the issues raised in the present proceeding and that in CWJC No. 8069 of 2010 (Nizam Khan Vrs. Punjab National Bank and others) are/were same and identical. He contends that the aforesaid writ petition vide CWJC No.8069 of 2010 has finally been disposed of by this Bench by judgment dated 23.03.2015 giving liberty to the petitioner of that case to approach the learned Debts Recovery Tribunal, Patna under Section 17 (1) of the SARFAESI Act for redressal of his valid grievances and the

matter has been directed to be considered on its own merits, in view of the judicial pronouncement made by the Hon'ble Apex Court in the case of **United Bank of India Vs. Satyawati Tondon [(2010) 8 SCC 110]**. It is pleaded that present matter may also be disposed of in same terms and with similar directions.

Learned counsel appearing on behalf of the respondents does not dispute that the issues involved in the present proceeding and that in the case of Nizam Khan Vrs.Punjab Bank of India & others (supra) are/were identical and same.

In above view of the matter as also in view of the judicial pronouncements made by the Hon'ble Apex Court in the case of United Bank of India Vs.Satyawati Tondon (supra), this Court is of the opinion that the petitioner must approach the learned Debts Recovery Tribunal under Section 17 (1) of the SARFAESI Act raising all the pleas which have been raised in the present proceeding. If such an application/appeal is filed on behalf of the petitioner before the learned Debts Recovery Tribunal, Patna 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 merits in accordance with law and shall not dismiss the said appeal/application on the ground of limitation, as under a bona fide legal advice, the present writ petition was filed on 03.10.12 and that remained pending before this Court till date.

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

Tahir/-

(Birendra Prasad Verma, J)

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