

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20735 of 2013

With
Interlocutory Application No. 2910 of 2015

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Bimla Devi W/O Jai Krishna Jha, resident of Village and Post- Shiv Nagar,
Police Station- Benipatti, District- Madhubani.

.... Petitioner/s

Versus

1. Debts Recovery Tribunal, Patna through its Presiding Officer, Bihar, Patna.
2. The Residing Officer, Debts Recovery Tribunal Bihar, Patna.
3. The Authorized Officer, Punjab National Bank, Circle Officer, G.M. Road, Head Post Office, Punjab National Bank, 1st Floor Near Akashwani, Opposite I.C.I.C.I., Bank, Darbhanga.
4. The Branch Manager, Punjab National Bank, P.O- Shiv Nagar at and P.O- Shiv Nagar, Police Station- Benipatti, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Nivedita Nirvikar, Advocate
Mr. Ratanakar Jha, Advocate

For the Respondent Nos. 3 & 4 : Mr. Kumar Priya Ranjan. Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 27-04-2015

Heard the parties.

The petitioner is aggrieved by the order dated 20.06.2013 (Annexure-7) passed in S.A.No. 138 of 2013 by learned Debts Recovery Tribunal, Patna whereby the application/appeal filed by the petitioner in terms of Section 17(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, "SARFAESI Act,") was disposed of with certain directions.

It is not in dispute that the impugned order is appealable in terms of Section 18 of the SARFAESI Act before the learned Debts Recovery Appellate Tribunal.

The issues of facts raised on behalf of the parties are required to be gone into by the statutory authorities and only

thereafter the power of judicial review in terms of Article 226 of the Constitution of India is required to be exercised, particularly, in the matters governing SARFAESI Act and The Recovery of Debts Due to Banks & Financial Institutions Act, 1993 as has been held by the Hon'ble Apex Court in the case of **United Bank of India Vs. Satyawati Tondon & others [(2010) 8 SCC 110]**.

In view of law laid down by the Hon'ble Apex Court particularly in paragraphs 42, 43, 44 and 45 as also the observations made in paragraph 55 of the aforesaid judgment, this Court is not inclined to interfere with the impugned order at this stage. The writ petition stands dismissed.

However, the petitioner shall be at liberty to challenge the impugned order in terms of Section 18(1) of the SARFAESI Act before the Debts Recovery Appellate Tribunal raising all the points which have been raised in the present writ petition.

If such an appeal is filed within a period of three weeks from today with a certified copy of the present order, then the learned Debts Recovery Appellate Tribunal shall consider the appeal on its own merits strictly in accordance with law and shall not dismiss such appeal on the ground of limitation as due to bona fide legal advice, the present writ petition was filed before this Court on 07.10.2013 and that remained pending before this Court till date.

I.A.No. 2910 of 2015 stands accordingly disposed of.

(Birendra Prasad Verma, J)

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