

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.333 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 8312 of 2012

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1. Nabin Kumar Jha Son Of Late Tarni Jha Resident Of Mohalla- Vasant Colony, Basudeopur, Munger
 2. Ashok Kumar Jha Son Of Late Tarni Jha Resident Of Mohalla- Vasant Colony, Basudeopur, Munger

.... Appellant/s

Versus

Union Bank Of India at Munger, Chowk Bazar, District- Town, Munger- 811201

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Ajit Kumar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 21-07-2016

The challenge in the present Letters Patent Appeal is to an order dated 13th July, 2012 whereby, the appellants were relegated to the remedy of appeal before the Appellate Authority under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the 'Act').

The respondent Bank initiated proceeding under Section 19 of the aforesaid Act before the Debts Recovery Tribunal, Patna. The appellants were impleaded as a guarantor. Such an application was allowed and the recovery certificate issued on 25th February, 2011. Instead of filing an appeal before the Appellate Authority, the appellants invoked the jurisdiction of this Court in the writ

application. This Court dismissed the writ petition for the reason that there is a statutory remedy of appeal. Instead of filing an appeal in terms of the order, the appellants filed Miscellaneous Appeal before the Tribunal which was not entertained and dismissed. Aggrieved against the order by the learned Single Bench, the appellants are before this Court.

The recovery certificate issued under Section 19 of the Act is an appealable order. The appellants are bound to avail such remedy. Though the condition of availing remedy is to pre-deposit the amount but the difficulty or inability of the appellants in not depositing the pre-deposit amount does not absolve him for not availing the statutory alternative remedy.

In view thereof, we do not find any merit in the present appeal and it is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Anjani

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.07.2016
Transmission Date	N/A