

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4950 of 2012

=====

1. Anita Devi @ Anita Singh Wife Of Sri Dwigendra Kumar R/O Shekhapura, P.S.-Ahiyapur, Distt.-Muzaffarpur. Resident Of Moh. Adarsh Colony, Shekhapura, P.S. Ahiyapur, District Muzaffarpur

2. Radha Rani Wife Of Sri Lalit Kumar Resident Of Moh. Adarsh Colony, Shekhapura, P.S. Ahiyapur, District Muzaffarpur

.... Petitioner/s

Versus

1. The General Manager, P.N.B. Budha Colony, Distt. Patna

2. The Senior Manager Cum Surveyor, P.N.B. Rajapul Branch, Budha Colony, Distt.-Patna

3. The Regional Manager, Punjab National Bank, Pankaj Market, Distt.-Muzaffarpur

4. The Branch Manager, Punjab National Bank, Industrial Area, Estate Bela, Distt.-Muzaffarpur

5. M/S Jai Mata Di Fabricts and Industries Through Ajay Kumar Sharma Proprietor Ojha Market, 2nd Floor Suhapatti, Sariyaganj, District-Muzaffarpur

6. Anirudh Prasad Son Of Late Ram Chandra Prasad Resident Of Village & P.O. Gulwara, Madhuban, District-East Champaran

7. Md. Sheru Ahmad Imamganj Condecoti, District-Muzaffarpur

8. The Debts Recovery Officer, Ist, Debts Recovery Tribunal, Patna

9. The Presiding Officer, Debts Recovery Tribunal At Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Singh
Mr. Manoj Kumar Jha

For the Respondent/s : Mr. Kumar Priya Ranjan

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

11 20-04-2016 Heard Mr. Sanjay Singh for the petitioners and Mr. Verma for the respondent Bank.

The writ application was initially filed challenging the order dated 14.08.2007 passed by the Debt Recovery Tribunal (for short 'DRT') in O.A. No. 39 of 2005 whereby the certificate of recovery at the instance of the respondent Bank was issued. The Recovery Officer was required to take step in the light of the



order. The petitioner no. 1 claiming herself as the owner of the property measuring 5 decimals of land filed an objection before the Recovery Officer. The Recovery Officer upon hearing the objection by an order dated 12.03.2012 rejected the same. By filing I.A. No. 5312 of 2013, the petitioners have challenged the aforesaid order.

Mr. Singh made diverse submissions to impress upon the Court that the petitioner no. 1 being the owner of the land/property was required to be heard in the matter by the DRT before passing any order adverse to her interest. The respondent no. 6 fraudulently mortgaged the property by executing agreement of guarantee in respect of the subject land in favour of the Bank for sanctioning loan in favour of respondent no. 5.

Mr. Verma, Counsel for the respondent Bank, on the other hand, disputing the contention has submitted that the petitioner has a remedy of filing appeal before the DRT under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (for short “the Act”).

Mr. Singh, on the other hand, placing reliance on Section 19 of the Act states that until and unless the original order passed by the DRT is challenged on the grounds on which the petitioners have filed the present writ petition, no effective relief

can be granted to them. He, therefore, seeks permission of the Court to withdraw this application enabling them to approach the appropriate forum.

Mr. Verma has urged that the petitioners are alien to the proceeding before the DRT but could have filed application under Section 20 of the Act.

Without opining any view on the rival contentions of the parties, this Court, in view of the submissions of Mr. Singh, would permit the present application to be withdrawn enabling the petitioners to avail appropriate remedy before the authority/Tribunal in accordance with law. If they do so, I am sure the Tribunal/Appellate Authority will consider and examine their case in accordance with law.

Be it further noted that the Counsel for the petitioners states that the petitioners would seek the appropriate remedy before the Tribunal/Appellate Authority after seeking condonation of delay as the petitioner had been bona fidely pursuing his remedy before this Court.

(Kishore Kumar Mandal, J)

Pankaj/-

U			
---	--	--	--