WEB COPY
NOT OFFICIAL

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10932 of 2016

==

Anurag Ranjan, S/o Dr. Balmiki Sharma, resident of village, P.O. & P.S. Maranchi, District- Patna.

.... Petitioner/s

Versus

1. Indusind Bank Ltd. through its Zonal Manager, having its office at 41, Shakespear Sarani, Duckback House, 2nd Floor, opposite Kala Mandhir, Kolkata (West Bengal)
2. The Branch Manager, Indusind Bank Ltd. having its branch at Golu Automobiles Building, Near Amardeep Cinema, N.H.31, Harhar Mahadev Chowk, Begusarai

.... Respondent/s

==

Appearance :
For the Petitioner/s : Mr. Rajeev Nayan
For the Respondent/s : Mrs. Archana Sinha
Mr. Alok Kumar Shahi

==

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 27-07-2016 Heard learned counsel for the petitioner and learned counsel for the IndsInd Bank Ltd.

A preliminary objection with regard to the maintainability of the writ petition against the private Bank has been raised on the ground that the Bank has acted in exercise of its power under the contract of loan, which had been given to the petitioner, on failure to repay the vehicle of the petitioner has been seized.

Learned counsel for the petitioner in support of his stand has sought to rely upon the decision of a Division Bench of the Punjab and Haryana High Court in the case of M/s. A-One Mega Mart P. Limited and others vs. HDFC Bank & Anr.: (2012) 0

Supreme (P&H) 1086.

From a perusal of the aforesaid decision, it is evident that the same related to the action taken by the Bank under the provisions of the SARFAESI Act and in the said circumstances it was held by the Court that it would be amenable to the writ jurisdiction of the High Court. Paragraph No.28 of the said judgment is quoted below:-

> "28. From the above, it is concluded that ordinarily no writ lie against a private Bank. However, where the Bank is a Scheduled Bank under Reserve Bank of India Act, 1934 and is governed by the provisions of Banking Regulation Act, 1949, it shall be amenable to writ jurisdiction of this Court where the Scheduled Bank takes recourse to the provisions of SARFAESI Act."

This Court is in agreement with aforesaid the decision of the Punjab and Haryana High Court wherein it has been held that no writ would ordinarily lie against a private Bank but where the Bank is a Scheduled Bank under the Reserve Bank of India Act, 1934 and the said Bank takes recourse to the provisions of SARFAESI Act, then it is amenable to the writ jurisdiction of the Court.

There is no dispute in the present matter that the Bank is acting in exercise of its rights under the loan agreement entered into with the petitioner.

No statutory power is sought to be exercised in this case and therefore under the writ jurisdiction of this Court, it does not call for any interference by this Court.

In the above facts and circumstances, the writ application is not maintainable and is, accordingly, dismissed as not maintainable.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

U			