

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4410 of 2014

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1. M/S Shree Maha Laxmi General Store, Situated At Ram Bhawan Null Mohalla -
Mithapur Chowk, P.S. Jakkanpur, Distt. - Patna Through Its Proprietor

.... Petitioner/s

Versus

1. The Authorized Officer, Central Bank Of India ,Regional Office, Maurya Lok
Complex, Patna
2. The Branch Manager, Central Bank Of India, Yarpur Branch, Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Choudhary, Advocate.

For the Respondent/s : Mr. Ajay Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-01-2016

Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. I.A. No. 9718 of 2014 has been filed for
substituting Sri Sanjeev Kumar Jaiswal in place of the
petitioner-Proprietor Sri Anant Bhagwan Jaiswal who died on
7.4.2014.

3. It is stated that consequent upon death of Anant
Bhagwan Jaiswal, a resolution was passed by his legal heirs
enumerated in paragraph-3 of the I.A. in course of a family
meeting, appointing the aforesaid Sri Sanjeev Kumar Jaiswal
as the legal representative to pursue the present and other
legal matters.

4. Having regard to the nature of the prayer, I.A.



No. 9718 of 2014 is allowed and the name of Sri Sanjeev Kumar Jaiswal is permitted to be substituted in place of the petitioner-Proprietor Sri Anant Bhagwan Jaiswal, in course of the day.

5. The present writ petition has been filed for quashing the notice dated 18.09.2013 (Annexure-5) issued to the petitioner under Section 13(2) of the SARFAESI Act; a possession notice dated 21.01.2014 (Annexure-7) issued to the petitioner; the notice dated 23.01.2014 (Annexure-8) published in the daily Newspaper Hindustan for possession of the security charge to the Bank in terms of Section 13(4) of the SARFAESI Act; and for connected reliefs.

6. At the very outset, learned counsel for the respondent Bank submits that the petitioner has adequate alternative remedy by way of an appeal before the Debts Recovery Tribunal in terms of Section 17 of the SARFAESI Act for redressal of his grievances. It is further submitted that the Apex Court has also expressed the view that the High Court ought not to grant indulgence liberally by interfering in matters involving recovery of dues under the DRT and SARFAESI Act. Reference may be made to the judgment rendered in (2010) 8 SCC 110 [United Bank of India vs. Satyawati Tondon and others].

7. In view of the alternative remedy available to

the petitioner, this Court is not inclined to entertain the present writ petition, which is dismissed as such.

8. It is made clear that in case an appeal as aforesaid is preferred, the appellate authority would have regard to the present proceeding being pursued by the petitioner, while considering the question of condonation of delay.

(Vikash Jain, J)

Md. Ibrarul/-

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