

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5264 of 2014

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1. M/S Maa Vindhyawasini Service Station through Its Proprietor, Mangal Deo Narayan Shukla, Lal Bazar (Awadh Pura) Chapra Sonapur Road, P.S. Chapra Mufassil, Distt. Saran at Chapra

2. Mangal Deo Narayan Shukla S/O Late Dasrath Shukla, resident of village and P.O. Khajuhatti, P.S. Bainkuthpur, Distt.- Gopalganj, the proprietor of M/S Maa Vindhyawasini Service Station, Lal Bazar (Awadhpora), Chapra, Sonapur Road, P.S. Chapra Muffasil, Distt. Saran at Chapra

.... Petitioners

Versus

1. The Chair Person, Debt. Recovery Appellate Tribunal, Allahabad

2. The Presiding Officer, Debt. Recovery Tribunal, Patna, P.O. P.S. & Distt. Patna

3. The State Bank of India through the Chief Manager, Chapra Bazar, Branch Chapra, Distt. Saran at Chapra

4. Sri Vijay Kumar, S/O Late Bhagwati Singh, resident of village- Biran Tola, P.O. Badlu Tola, P.S. Chapra Muffasil, Distt. Saran at Chapra as Guarantor M/S Maa Bindhyawasini, Service Station Lal Bazar (Awadhpora), Chapra, Sonapur Road P.S. Chapra Muffasil, Distt. Saran at Chapra

.... Respondents

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Appearance :

For the Petitioners : Dr. K.N. Singh, Sr. Advocate

Mr. Akhilesh Kumar, Advocate.

For the Respondents: Mr. Kaushlendra Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-01-2016

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

2. The present writ petition has been filed for quashing the order dated 18.11.2013 passed by the respondent no. 1 the Debt Recovery Appellate Tribunal, Allahabad in Appeal No. (T.A.) 70/2013 in Appeal No. 11/2010 (arising out of the order dated 22.07.2009 passed in O.A. No. 43/2005) whereby and whereunder the respondent Debt Recovery Appellate Tribunal was pleased to dismiss the aforesaid appeal on the



ground that despite opportunity being granted, the petitioners had failed to deposit 35% of the total dues required to be deposited in terms of its order dated 30.10.2013 and hence the appeal was not maintainable in view of Section 21 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

3. Learned Senior counsel for the petitioners, Dr. Krishna Nandan Singh, appears and submits that an amount of Rs. 1,02,000/- had been deposited, but despite best efforts the petitioners were unable to summon up the requisite funds for making payment of the balance amount required to make up 35% of the amount awarded by the D.R.T., in compliance of the order of the Debts Recovery Appellate Tribunal. It is submitted that *in limine* dismissal of the appeal has resulted in considerable prejudice and injustice to the petitioners, as on merits, the petitioners have a very good case in the background of the fact that the Bank had acted contrary to the instructions of the petitioners and continued to honour cheques issued from the lost cheque book of the petitioners despite due and prior information having been given to the Bank.

4. Learned counsel for the respondent Bank appears and has been heard.

5. Having regard to the entirety of the facts and circumstances of the case and in the interest of justice, the

impugned order dated 18.11.2013 passed by the Debts Recovery Appellate Tribunal, Allahabad is set aside, granting one further opportunity to the petitioners to make deposit of the remaining amount required as earlier directed by Debts Recovery Appellate Tribunal in terms of its order dated 30.10.2013, within a period of 45 days from today. In case such payment is made by the petitioner within the stipulated time, such payment shall be deemed to have been made in compliance with the order dated 30.10.2013 passed by the Debts Recovery Appellate Tribunal, Allahabad in Appeal (T) No. 70/13 in Appeal No. 11/2010.

6. The writ petition accordingly stands disposed.

(Vikash Jain, J)

Md. Ibrarul/-

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