

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.299 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 5165 of 2006**

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The Branch Manager, Punjab National Bank, Guraru Branch, Police Station - Guraru and District - Gaya.

.... Appellant/s

Versus

1. Bal Mukund Mahto Son of Late Haricharan Mahto, Resident of Village - Pathra, Post Office - Tineri, Police Station - Guraru, District - Gaya.
2. The State of Bihar.
3. The District Magistrate, P.S. & District - Gaya.
4. The District Certificate Officer, P.S. & District - Gaya.

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Sarva Deo Singh, Advocate.

For Respondent No.1 : Mr. Mahendra Thakur, Advocate.

For Respondent No. 2 : Mr. Kumar Alok, SC-7

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE

Date: 09-11-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 19.12.2011 whereby, the writ application was allowed directing the Bank to release the tractor in view of deposit of Rs. 21,850/- in terms of the order passed by the District Certificate Officer on 23.01.2002.

2. The respondent No. 1 availed a tractor loan somewhere in the year 1993-94. Since there were defaults committed on the part of the borrower to repay the loan amount, the Bank initiated a proceeding for recovery of the due amount. The said recovery proceedings culminated on 23.01.2002 whereby, the borrower was directed to deposit the remaining balance principal

amount of Rs.21,850/- up to 28.03.2002. The proceedings were ordered to be taken up for further action on 28.03.2002.

3. It appears that the borrower deposited the said amount, but since the tractor was not released, the petitioner invoked the writ jurisdiction of this Court which has been allowed by the learned Single Bench of this Court vide the order impugned in the present Letters Patent Appeal. The Bank has not filed any counter affidavit before the learned Single Bench.

4. In the present Letters Patent Appeal, the stand of the Bank is that the Bank has filed a review petition to seek review of the order passed by the District Certificate Officer on 23.01.2002, and that the review is still pending, therefore, the order passed by the learned Single Bench is not sustainable in the eye of law.

5. We have heard learned counsel for the parties and find no merit in the present Letters Patent Appeal.

6. The District Certificate Officer has passed an order on 23.01.2002 in the proceedings initiated by the Bank. Such order has attained finality. The review would not be maintainable as there is no power of review in the Bihar & Orissa Public Demand Recovery Act, 1914. The bank has to seek its remedies as may be available to it in accordance with law. Admittedly, the Bank has not disputed the said order before any appropriate forum.

7. Since, the order dated 23.01.2002 has attained

finality, the Bank cannot be permitted to dispute the order passed by the District Certificate Officer in the present Letters Patent Appeal, as such order was not challenged at any appropriate stage in accordance with law.

8. In view thereof, we do not find any merit in the present Letters Patent Appeal. Accordingly, the Letters Patent Appeal is dismissed.

(Hemant Gupta, ACJ)

(Ahsanuddin Amanullah, J)

Mishra/-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
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