

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2154 of 2016
IN
Civil Writ Jurisdiction Case No. 19551 of 2012**

- =====
1. Mina Sah, wife of Sri Umesh Sah, the proprietor/s Chandan Gallens Bhandar Chatti Road, Mian Chak, Police Station- Begusarai (Town), District- Begusarai (Town), District- Begusarai.

.... Appellant/s

Versus

1. The State Bank of India through its Chairman, Corporate Centre, Tulsiani Chamber, Nariman Point, Mumbai.
2. The Assistant General Manager, Region III, State Bank of India, Gandhi Maidan, Patna.
3. The Zonal Manager, Local Head Office, State Bank of India, Gandhi Maidan, Patna.
4. The Regional Manager, Regional Business Office, G.S. Motors Building, Harihar Mahadeo Chowk, Begusarai.
5. The Chief Manager, State Bank of India, Begusarai Branch, Begusarai.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Prabhu Narayan Sharma, Advocate

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

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-05-2017

Having heard learned counsel for the parties, we are of the considered view that with regard to the issue in question pertaining to enforcement of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (for short, “SARFAESI”) Act, 2002, petitioner, a widowed lady, can always challenge the action initiated and recovery effected against her by approaching the Debts Recovery Tribunal under Section 17 of the



SARFAESI Act, 2002 and when remedy of statutory appeal is available by approaching either the Debts Recovery Tribunal by an application under Section 17, if permissible in law, or the Appellate Tribunal under Section 18 of SARFAESI Act, in this proceeding under Article 226 of the Constitution, it is not necessary to go into various aspects of the matter as canvassed before us, primarily, on the ground that the learned Writ Court disposed of the matter in the absence of the petitioner and their counsel and the petitioner did not get proper opportunity to represent her case as all the grounds that are being canvassed before us can always be canvassed by taking recourse to an application under Section 17 or 18 of the Act.

That being so, for the present, without entering into the controversy, we dispose of the appeal.

On the petitioner's filing an appropriate application or appeal along with a certified copy of this order, as may be permissible in law, either before the Debts Recovery Tribunal or before the Appellate Tribunal, within a period of 30 days the authority shall proceed to decide the grievance of the petitioner, after hearing all concerned, in accordance with law, on merit and shall not reject the application on the ground of delay and, while dealing with the matter, the Tribunal and the Appellate Tribunal shall independently examine the claim of the petitioner and shall not



in any way be influenced with the observations made in the order dated 28.10.2016 passed in C.W.J.C. No.1755 of 2012.

With the aforesaid, this appeal is disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

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