

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1095 of 2015
IN
Civil Writ Jurisdiction Case No. 107 of 2015**

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M/s Harihar Cold Storage a partnership firm having its site at Rajrappa Road, P.O. Gola, District Ramgarh through one of its partners Shri Girish Chandra Agarwal S/o Late Shatrughan Prasad R/o Gola Cold Storage Pvt. Ltd. Rajrappa Road, P.O. Gola, District - Ramgarh, Jharkhand.

.... Petitioner / Appellant

Versus

The Asst. General Manager, State Bank of India, Stressed Assets Management Branch, 5th Floor, SBI Patna, Zonal Office Building, J.C. Road, Patna.

.... Respondent / Respondent.

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Appearance:

For the Appellant/s : Mr. Arbind Kumar Jha, Advocate.

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

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 02-08-2017

Perused the impugned order dated 19.01.2015.

Heard learned counsel for the appellant and learned counsel for the Bank.

The motto of filing of the present appeal is only to postpone and delay the inevitable or preventing the Bank from making recoveries of default of loans for which a proceeding was initiated, first, before the Debt Recovery Tribunal which has reached the stage of execution and since thereafter also there has been continuous defaults and the debt has been mounting, a proceeding



under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short ‘the SARFAESI Act’) was also initiated.

A Writ was filed to stay the proceeding under Section 13(2) of the SARFAESI Act. The learned Single Judge after taking note of the provisions of the SARFAESI Act as well as the applicability and decisions rendered in such cases which indicates that there is no bar in the two proceedings going on simultaneously especially since the 13(2) proceeding was initiated for subsequent periods of default as well.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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