

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.494 of 2015

In

Civil Writ Jurisdiction Case No.8658 of 2014

=====

Ms. Sona Masala Udyog through its proprietor Sita Ram Mahto, Son of Sri Jagdish Mahto, Resident of Village- Sikandarpur, P.S.- Mufassil, District- Begusarai

... .. Appellant/s

Versus

1. The State Bank of India through Assistant General Manager, State Bank of India
2. Regional Manager, Region III, State Bank of India, R.B.O., Harhar Mahadeo Chouk, Begusarai
3. The Chief Manager, State Bank of India (Main Branch), Nagarpalika Branch, Begusarai

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Anil Kumar Tiwary
Mr Karandeep Kumar
For the Respondent/s : Mr. Sanjiv Kumar

=====

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

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 21-08-2017

Since the writ application of the appellant was dismissed by the learned Single Judge vide his judgment dated 13.02.2015, the present Letters Patent Appeal has been preferred.

Petitioner- Appellant is a borrower from the respondent State Bank of India. For the borrowing, he had pledged certain property as collateral. Default took place in terms of regular payment and despite various opportunity and indulgence given by the Bank, the



loan was not liquidated ,which forced the hands of the respondent Bank to initiate proceedings under the SARFAESI Act.

The property in fact now has been auctioned sold in the year 2012. Effort was made by the appellant to approach the Debt Recovery Tribunal. The Tribunal also gave an opportunity to the appellant by allowing him to pay certain interest as well as 5% simple penalty on the auction amount. This order was passed on 13.09.2013. Instead of taking advantage of a favourable order like that, the appellant decided to file a writ application. The learned Single Judge after due consideration and lack of bona fide and willingness of the appellant to pay even then, dismissed the writ application. Even now at the stage of appeal, the appellant is not willing to pay. Therefore, this Court is not willing to interfere with the order of the learned Single Judge.

To test the bona fide of the argument, the matter was also adjourned and the Court directed the respondent Bank to give details of the calculation as well as the valuation based on which the auction of the property was made.

A supplementary counter affidavit has been served and filed. We have gone through the same. We are not impressed by the argument made at the Bar that the Bank had played foul with him by auctioning the property by undervaluation. In fact, the auction



has been made on a higher price than the price for the property, at the relevant time in the year 2011.

It is a case where no relief can be extended to the borrower because there is not only lack of law to support him but even his bona fide has been missing from day one.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

sk

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22 .08.2017
Transmission Date	NA

