

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2032 of 2016

In

Civil Writ Jurisdiction Case No. 9307 of 2013

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Naushad Ali Farooqui, Director- Partner of Asadullah Cold Storage, S/o
Mohammad Ali resident of Village and P.O.-Chanp, P.S.- Pachrukhi,
District-Siwan.

.... Petitioner/s

Versus

1. Debt Recovery Tribunal, Patna, Bihar represented through its Presiding Officer.
2. The Presiding Officer, Debt Recovery Tribunal, Patna, Bihar.
3. Bank of Baroda, Office at Mandavi Baroda Gujrat, and Corporate Office at Bandra Kurla Complex, Bandra, Mumbai-51 Maharashtra represented through its Branch Manager, Siwan Town Branch.
4. The Branch Manager, Bank of Baroda, Siwan Town Branch, P.S.- Siwan, District- Siwan.

.... Respondent/s

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With

Miscellaneous Jurisdiction Case No.2033 of 2016

IN

Civil Writ Jurisdiction Case No. 3337 of 2013

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Naushad Ali Farooque, S/o Mohammad Ali, resident of Village and P.O.-
Chanp, P.S.- Pachrukhi, District-Siwan.

.... Petitioner/s

Versus

1. Bank of Baroda, Regd. Office at Mandavi Baroda Gujrat, and Corporate Office at Bandra Kurla Complex, Bandra, East Mumbai-51 Maharashtra, represented through its Branch Manager, Siwan Branch.
2. The Branch Manager, Bank of Baroda, Siwan Branch.
3. The Authorised Officer of Bank of Baroda under SARFAESI Act, 2002.

.... Respondent/s

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Appearance :

(In MJC No.2032 of 2016)

For the Petitioner/s : Dr. Binay Kumar Singh, Adv.

For the Respondent/s : Mr. Vivek Prasad, Adv.
Mr. Sanjay Kumar Ojha, Adv.

(In MJC No.2033 of 2016)

For the Petitioner/s : Dr. Binay Kumar Singh, Adv.
Mr. Sanjay Kumar, Adv.

For the Respondent/s : Mr. Vivek Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER



3 08-02-2017 Heard Dr. Binay Kumar Singh, learned counsel for the petitioner in the two restoration applications.

These two restoration applications have been filed for restoration CWJC No.3337 of 2013 which was heard analogous with CWJC No.9307 of 2013. While CWJC No.3337 of 2013 was filed questioning the possession notice dated 15.10.2012, CWJC No.9307 of 2013 was filed questioning the order dated 5.3.2013 passed in M.A. No.448 of 2012 as well as the judgment and order dated 27.8.2012 passed in O.A. No.90 of 2012 by the Presiding Officer, Debt Recovery Tribunal, Patna, whereby a certificate of recovery under the provisions of the Recovery of Debts Due to Bank and Financial Institutions Act, 1993 (hereinafter referred to as 'the Act') was directed to be issued.

This Court took notice of the facts accompanying the two writ petitions as also the fact of non-appearance of the petitioner(s) counsel on two consecutive dates and which led to the dismissal of the writ petitions for non-prosecution vide order dated 19.4.2016 passed in the two writ petitions. The two restoration applications have been filed thereafter.

Although a plea has been taken attributing laches on the part of the Advocate concerned but considering the status of the matter where the petitioner had appeared before the Tribunal



but never chose to file written statement or to contest the matter as can be found at paragraph 4 of the order passed in O.A. No.90 of 2012 as also taking note of the statutory remedy so available to the petitioner under 'the Act', at this stage I am not persuaded to order for restoration of the writ petitions.

Both the restoration applications are accordingly dismissed.

(Jyoti Saran, J)

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