

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18130 of 2016

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Sanjay Kumar Singh S/o Late Baidya Nath Prasad Singh R/o Singh Niwas,
Bihari Saw Lane, Muradpur, Post office Bankipur, P.S. Pirbahore, Distt. Patna

... .. Petitioner/s

Versus

1. Bank of India, through Branch Manager, Muradpur Chouhatta Branch, Patna
2. The Union of India through Presiding officer, Debt Recovery Tribunal, Wings 'A' and 'B', 5th Floor, Karpuri Thakur Sadan, GPOA, Near Rajeev Nagar, P.S. Ashiana Digha Road, Patna 800025

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Jha
For the Respondent/s : Mr. S.D Sanjay (Addl. Soc. Gen.)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 17-12-2018 The present writ petition has been filed for quashing the ex parte order dated 28.09.2016 passed in M.A. No.76 of 2016, whereby and whereunder the M.A. has been dismissed without considering the matter on merit but on the ground of laches on the part of the Advocate of the petitioner herein i.e. defendant of O.A. No. 272 of 2015.

The learned counsel for the petitioner has submitted that Rule 13 of the Debts Recovery Tribunal (Procedure) Rules, 1993 provides that in case an Advocate or a party defalcates in appearing before the Debt Recovery Tribunal, notices are required to be issued to the respective parties for seeking their appearance. However, the said Rule has not been followed in the present case. It is further submitted that the Advocate of the



petitioner herein had met with a serious accident immediately upon filing Vakalatnama on behalf of the petitioner/defendant in O.A. No. 272 of 2015, thus the O.A. No. 272 of 2015 was decided ex parte, hence the petitioner/defendant had moved the Debt Recovery Tribunal, Patna by way of M.A. No. 76 of 2016 for review of the order dated 22.02.2016 passed in O.A. No. 272 of 2015.

The learned counsel for the respondent Bank submits that the petitioner should be put to certain terms inasmuch as not only the petitioner has been a defaulter but has also deliberately avoided the proceedings before the Debt Recovery Tribunal, Patna.

Having regard to the facts and circumstances of the case as also in the interest of justice, it would be appropriate to give a chance to the petitioner herein to put forth his case before the Debt Recovery Tribunal, Patna on merits, hence, the order dated 28.09.2016 passed in M.A. No. 76 of 2016 is quashed and the Debt Recovery Tribunal, Patna is directed to consider the case of the petitioner on merits and pass appropriate orders, in accordance with law. It is, however, made clear that any default by the defendant/his counsel in appearing before the Debt Recovery Tribunal, would automatically entail dismissal of the



aforesaid M.A. No. 76 of 2016.

In order to facilitate the parties, it is directed that the Debt Recovery Tribunal, Patna would hear M.A. No. 76 of 2016 on 25th January, 2019, where the parties would appear positively and in case of default in appearance of the petitioner herein, the aforesaid M.A. No. 76 of 2016 shall be heard ex parte.

The writ petition is allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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