

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12436 of 2018

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M/s Sagar the Brand, through Prop. Sri Satyajeet Kumar, Son of Sri SATish Kumar, Resident of Thana Road, Near Rajiv Ranjan Clinic, Pani Tanki, Hajipur, P.S. & P.S. Hajipur, District Vaishali, Pin – 844101.

.... Petitioner

Versus

1. The Authorized Officer, Central Bank of India, Regional Office - Pawapuri Vihar Building NH-28, Bhagwanpur Muzaffarpur-842001.
2. The Branch Manager, Central Bank of India, Hajipur Branch, Vaishali.
3. The Debt Recovery Tribunal through the Registrar, Patna
4. The Presiding Officer, DRT, Karpoori Sadan, Patna
5. The Registrar, DRT, Karpoori Sadan, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Brisketu Sharan Pandey, Advocate

For Respondent-Bank : Mr. Ajay Kumar Sinha,
Mr. Ajit Kumar Sinha,
Ms. Manini Jaiswal, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 04-07-2018

Heard learned counsel for the petitioner as well as
learned counsel for the respondent-Bank.

2. The present writ petition has been filed for the
following reliefs –

*“(i) For quashing of the order dated 16.10.2017 passed
by the Respondent no. 4 in SA 83 of 2017 (Annexure-2)
whereby and whereunder the Respondent no. 4 has
dismissed the SARFAESI Application filed by the
petitioner.*

*(ii) For quashing of the Order dated 27/04/2018
passed by the Respondent No. 4 in SA No. 205/2017
(Annexure-5), whereby and whereunder the Presiding*



Officer in the most arbitrary and capricious manner allowing the Bank to take advantage of its own mistake and thereby has directed that the Demand Draft of Rs. Five Lakhs lying with the registry, shall be handed over to the Bank.

(iii) For staying the proceedings of OA 527 of 2018 filed by the respondent bank.

(iv) For setting aside the possession notice dated 27/03/2017 published in the newspaper.

(v) For setting aside the sale notice dated 7/11/2017 published in the newspaper.

(vi) For setting aside the auction notice dated 15/12/2017 published in the newspaper for restraining the respondent for proceeding with the auction sale of the co laterals securities furnished by the petitioner Bank.

(vii) For directing the respondent Bank the petitioners may be explained the modality and the basis of computation of due amount as the petitioner (as observed by order dated 25.01.2018, 02.02.2018 of DRT in SA 205/2017) are arriving at a different figure as that of the amount computed by the respondent Bank.

(viii) For passing stay order for taking further any legal action against the Petitioner till disposal of the Case.

(ix) For quashing the paper publication so far it relates to petitioner whereby and whereunder 07.07.2018 has been fixed as last date for e-auction.

(x) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and



circumstances of the case.”

3. Learned counsel for the petitioner fairly accepts that remedy by way of appeal before the Debts Recovery Appellate Tribunal is available to the petitioner against the impugned order dated 16.10.2017 passed in SA No. 83 of 2017, which has not been availed of.

4. In view of availability of the alternative remedy as above, this Court is not inclined to interfere in the matter. The writ petition stands dismissed with liberty to the petitioner to file an appeal before the Debts Recovery Appellate Tribunal, Allahabad for redressal of its grievances.

5. It is made clear that in case such an appeal is filed, the concerned authority would have regard to the present proceeding being pursued by the petitioner, while considering any issue relating to condonation of delay, if applicable.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.07.2018
Transmission Date	N.A.

