

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 973 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 18006 of 2015

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1. Om Shivam Modern Rice Mill Pvt. Ltd. having its registered Office at Village and P.O.- Konar, P.S.- Shiv Sagar (Rohtas), Bihar, through its Managing Director Ajay Kumar.
 2. Ajay Kumar, Managing Director of Om Shivam Modern Rice Mill Pvt. Ltd. S/o Shri Sudarshan Sah, R/o Mohalla- Raj Colony, 174C, Company Sarai, Circle- Sasaram -821115, Ward no.- 9, Rohtas.

.... Petitioner/s

Versus

1. United Bank of India, through its Managing Director, Head Office namely P. Srinavasan at 11, Hemant Basu Sarani, United tower, 5th Floor, Kolkata- 700001.
2. The Executive Director, namely Shri Sanjay Arya, Head Office at 11, Hemant Basu Sarani, United tower, 5th Floor, Kolkata- 700001.
3. The Chief Regional Manager, namely Shri Dhannjay Pratap Singh, at United Bank of India, Regional Office, Fraser Road, Patna.
4. The Senior Branch Manager, namely Chandan Anand, United Bank of India, Sasaram Branch, Sasaram.
5. The Authorized Officer, Arun Kumar Singh for United Bank of India, Head Office at 11, Hemant Basu Sarani, United tower, 5th Floor, Kolkata- 700001.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Din Bandhu Singh and Mr. Santosh Kumar, Advocates
For the Bank	:	Mr. Rajendra Narain, Sr. Advocate Mr. Binod Bihari Sinha, Mr. Ajay Dutt Mishra and Mr. Amarjeet Choudhary, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 19-09-2018

Heard learned counsel for the petitioners and United Bank of India (hereinafter referred to as the 'Bank').

2. The petitioners have moved the Court alleging violation of the order dated 08.01.2016 passed in C.W.J.C. No. 18006 of 2015.



3. The Court while interfering in the order under challenge in the writ petition dated 01.10.2015, issued under Section 13(2) read with Section 13(13) of the SARFAESI Act, 2002 (hereinafter referred to as the 'Act') had quashed the same on the ground that once subsequent to notice issued to the petitioners on 01.10.2015, the reply filed by the petitioners dated 09.12.2015, was not considered by the Bank. Pursuant to order dated 08.01.2016, from the show cause filed on behalf of the Bank, it transpires that by order dated 27.01.2016, the representation of the petitioners dated 09.12.2015 was duly considered and rejected.

4. Learned counsel for the petitioners submitted that they had submitted a representation on 01.02.2016, along with copy of the order of the Court to the Bank and, thus, the same had to be considered right from the beginning and every subsequent procedure had to be followed again by the Bank.

5. Having considered the matter, the Court in its present jurisdiction cannot go beyond the order passed in the writ application. The same clearly indicates that the interference of the Court was due to non consideration of the representation/objection filed by the petitioners dated 09.12.2015 under Section 13(4) of the Act. The same having been considered and order passed on 27.01.2016, clearly discharges the onus on the Bank as far as the



order dated 08.01.2016 is concerned. Any subsequent development is a fresh cause of action which has to be challenged before the appropriate forum, in accordance with law.

6. Learned counsel for the Bank has informed the Court that the subsequent action against the petitioners is being contested by them before the Debt Recovery Tribunal.

7. Be that as it may, as no case for contempt has been made out, the application stands disposed off. However, the petitioners are at liberty to pursue the matter, in accordance with law, for any cause of action in the matter, before the appropriate forum. The Court may only observe that being a Public Enterprise and State under Article 12 of the Constitution of India, the Bank should consider objectively any proposal which the petitioners may present before it for ensuring that public money is not squandered and at the same time the enterprise also is able to flourish.

(Ahsanuddin Amanullah, J.)

P. Kumar

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