

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.574 of 2018
IN
Civil Writ Jurisdiction Case No. 2135 of 2018**

=====

Sanjay Kumar, Son of late Satya Narayan Singh, Resident of Ward No.3, Takiya, P.O. - Takiya Bazar Police Station-Sasaram Model Thana, District-Rohtas, Proprietor of Sarswati Enterprises.

.... Appellant/s

Versus

1. Authorised officer, Bank of Baroda, P.O. & P.S. Sasaram.
2. Bank of Baroda, Main Branch, Hasnu Market, Old G.T. Road, Sasaram, District-Rohtas, Bihar.
3. The Regional Manager, Regional Office, Bank of Baroda, Anand Bihar, 4th Floor, West Boring Canal Road, Patna.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ajay Prasad, Adv.
Mr. Ajit Kr. Sinha, Adv.
For the Respondent/s : Mr. Ratnesh Nandan Sinha, Adv.
Mr. Purusotam Prasad, Adv.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 17-05-2018

Challenge in the present Letters Patent Appeal to the judgment dated 05.03.2018 passed by the learned writ Court in C.W.J.C No.2135 of 2018.

2. The learned Writ Court in the facts of the case found that according to the Bank notice under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, "SARFAESI Act") had been served upon the petitioner and thereafter action was taken under Section 13 (4) of the SARFAESI Act as also that there were serious allegations of fraud and diversion of funds by the petitioner and his family members, refused to interfere with the action of the bank for sale of the mortgaged assets pursuant to the certificate of recovery dated



17.10.2017 granted by the Debts Recovery Tribunal, Patna.

3. In our considered opinion, the learned writ Court rightly held that the judgment dated 17.10.2017 passed by the Debts Recovery Tribunal, Patna, was amineable to a statutory appeal under section 18 of the SARFAESI Act and, therefore, if the petitioner did not avail the remedy of the statutory appeal, the writ Court would not have sit in appeal against the judgment of the Debts Recovery Tribunal, Patna. The sale notices were published in the two daily newspapers and in course of hearing we have been informed that the sale has already taken place pursuant to the aforesaid sale notice.

4. Learned counsel for the appellant has though repeated the same arguments which were made before the learned writ Court, in the facts and pleadings which are available on record, we do not find any error in the impugned judgment.

5. The Letters Patent Appeal has not merit and it is, accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha

AFR/NAFR	
CAV DATE	
Uploading Date	19.05.2018
Transmission Date	

