IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.529 of 2018
IN
Civil Writ Jurisdiction Case No. 1292 of 2018

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Umesh Kumar Sharma, S/o Late Jagdish Sharma, resident of Village & P.O.-Haripur, P.S.-Alauli, District-Khagaria.

.... Appellant/s

Versus

1. The Regional Manager, Bihar Gramin Bank, Gramin Bank Chowk, North HFC Gate, N.H.-31, Post Bihat, District-Begsuarai and also working for gain at present Sona Jageshwar Complex, Traffic Chowk, Begusarai.
2. The Authorized Officer, Bihar Gramin Bank, Gramin Bank Chowk, North HFC Gate, N.H.-31, Post-Bihat, District-Begusarai and also working for gain at present Sona Jageshwar Complex, Traffic Chowk, Begusarai.
3. The Branch Manager, Bihar Gramin Bank, Haripur Branch, P.O.-Haripur, District-Khagaria.

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Dhananjay Kumar Pandey
For the Respondent/s : Mr. Ranjeet Kumar Pandey

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)
Date: 25-04-2018

Challenge in the present Letters Patent Appeal is to the judgment dated 02.04.2018 passed by the learned Writ Court in Civil Writ Jurisdiction Case No.1292 of 2018 by which the learned Writ Court has been pleased to dismiss the writ application and thereby refused to accept the prayer of the petitioner for issuance of a direction to the respondents to accept the loan amount of Rs.1,67,525/- from the petitioner and close the loan account of the petitioner.

2. It appears that the writ application was preferred for several directions to the respondents towards settlement of loan account and return of inventory of movables properties which were taken possession in connection with the said loan account. The petitioner also prayed for a direction to the respondent Bank to postpone the sale of mortgaged property of the petitioner.

3. The learned Writ Court having noticed the facts of the case found that the petitioner had earlier moved the Debts Recovery Tribunal, Patna under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI') vide SARFAESI Appeal No.74 of 2015 which was dismissed in default. Thereafter, M.A. No.17 of 2015 was also filed for recall of the dismissal order, but the same was not entertained and was rejected vide order dated 22.12.2016. The learned Writ Court found that the petitioner seems not to have taken recourse to statutory appeal for redressal of his grievances nor complied with the letter of the bank requiring payment of outstanding dues in three equated monthly installments.

4. Learned counsel representing the borrower-appellant has challenged the order passed by the learned Writ Court, but without any cogent ground. It seems that the residential house of the petitioner was earlier taken possession of by the respondent Bank and an auction was scheduled to be held on 27.12.2017. The grounds raised in the writ application as well as in the present appeal are no such grounds on which the learned Writ Court sitting under Article 226 of the Constitution of India should interfere and grant the relief on sympathetic considerations. Admittedly, the petitioner has availed loan facility from the Bank and the Bank has taken action under the Statutory provisions of the 'SARFAESI' Act, 2002. The petitioner has a remedy under the Statute and, therefore, if the learned Writ Court has refused to entertain the writ application taking note of the facts and circumstances, we find no reason to interfere with the judgment of the learned Writ Court.

5. This appeal has no merit. It is, accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
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