

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1639 of 2018**

**In**

**Civil Writ Jurisdiction Case No.6261 of 2018**

Arvind Kumar, son of late Mewa Lal Sao, R/o Opp. Nageshwar Mall & Multiplex, Ramchandrapur, P.S.- Biharsharif, Distt- Nalanda.

... .. Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, G.A.D.
2. The District Magistrate, Biharsharif, Nalanda.
3. Branch Manager, Central Bank of India, Nalanda College Branch, Biharsharif, P.S.- Biharsharif, District- Nalanda.
4. Kumar Pranav, the then Recovery Officer, through Debt Recovery Tribunal, Wings "A" and "B", 5<sup>th</sup> Floor, Karpuri Thakur Sadan, GPOA, near Rajeev Nagar, P.S.-Ashiana Digha Road, Patna-800025
5. Avijeet Kumar, S/o late Devendra Prasad Singh, H.B.No. 92, Ward No. 21, Garhpar, Biharsharif, Nalanda.
6. Rajani Kumari Singh, holding authority letter of Right Path Foundation Trust, 102, Dropadi Kunj Apartment, New Patliputra Colony, Patna.

... .. Respondent/s

**Appearance :**

|                        |   |                                  |
|------------------------|---|----------------------------------|
| For the Appellant      | : | Mr. Arbind Kumar Jha, Advocate   |
| For the State          | : | Mr. S.K.Sharma, A.C. to A.A.G.-3 |
| For the Resp. Nos. 1-4 | : | Mr. Ajay Kumar Sinha, Advocate.  |
| For the Resp. Nos. 5-6 | : | Mr. Raju Giri, Advocate.         |

**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE JUSTICE SMT. ANJANA MISHRA**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 30-11-2018**

Heard learned counsel for the appellant and the learned counsel for the respondent Bank as well as the auction purchaser.

The judgment of the learned single Judge has been assailed on the ground that there was no remedy available to the appellant against the proceedings undertaken by the Recovery Officer inasmuch as keeping in view the provisions of Section



29 of the Recovery of Debts and Bankruptcy Act, 1993 (hereinafter referred to as the '1993 Act'), the challenge which has to be raised against the proceedings initiated by the Recovery Officer, would not be under the provisions of 1993 Act, but would be governed by the Rules referred to in Section 29 of the 1993 Act.

Learned counsel further submits that the appellant would be rendered remediless keeping in view the provisions of limitation for filing of an appeal as is being contended by the other side.

We have considered the submissions raised and what we find is that the rules of procedure as prescribed under Section 29 of the 1993 Act, would not govern the filing of an appeal under Section 30 of the 1993 Act. The argument on behalf of the appellant is misconceived inasmuch as the substantive provision of appeal under Section 30 of the 1993 Act is a right in respect of a remedy which an aggrieved person can avail of in terms of the 1993 Act when the recovery of a debt is resorted to under Chapter V of the 1993 Act. In such circumstances, the order of the Debt Recovery Appellate Tribunal dated 8<sup>th</sup> February, 2018 rightly records that after the fresh sale notice, the appellant was required to approach the



Debt Recovery Tribunal as per Section 30 of the 1993 Act.

The aforesaid legal position being absolutely clear and free from any ambiguity, we see no reason to conclude otherwise and the impugned judgment of the learned single Judge, therefore, deserves to be upheld. Accordingly, the Letters Patent Appeal is rejected without prejudice to the rights of the appellant to avail of the appropriate remedy in accordance with law.

**(Amreshwar Pratap Sahi, CJ)**

**( Anjana Mishra, J)**

Saif/Sujit

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| AFR/NAFR          | NAFR |
| CAV DATE          | NA   |
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