IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1500 of 2019

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1. Maa Yashoda Rice Mill Pvt. Ltd. a registered Company it's registered Office at Mir Gulabi Bagh, Sadar Gali, P.S. Khajekalan, Patna City, Patna through one of It's Directors namely Amar Kumar, Male, Aged about 37 years, son of Shri Suresh Choudhary, Resident of Mir Gulabi Bagh, Sadar Gali, P.S. Khajekalan, Patna City, Patna.
2. Asha Devi @ Asha Rani, female, aged about 42 years, Wife of Manoj Kumar Choudhary Resident of Naubatpur, P.S. Naubatpur, District-Patna
3. Neelam Devi Female aged about 43 years, wife of Ashok Kumar Resident of Baans Kothi, Digha, P.S. Digha, P.O. Dighaghat, District-Patna.
4. Girija Devi Female aged about 62 years, wife of Mahavir Choudhary, Resident of At Hulasganj, District-Jehanabad.

... ... Petitioners

Versus

1. The Punjab National Bank having it's registered office at 7, Bhikhaji Cama Place,New Delhi through it's Managing Director.
2. The Circle Head, Punjab National Bank, Zonal Office, R-Block, 2nd Floor, Chanakya Tower, Patna
3. The Chief Manager Cum Authorized Officer, Punjab National Bank, Patna City, Patna.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr.Gautam Kumar Kejriwal, Advocate Mr. Alok Kumar Jha, Advocate
For the Bank	:	Mr.Kumar Priya Ranjan, SC PNB Mr. Niraj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 30-01-2019

Heard learned counsel for the petitioners and learned counsel representing the Bank.

Petitioners are aggrieved by the order in form of a letter dated 03.11.2018 issued by the Authorized

Officer of the Bank in his purported exercise of power under Section 13(3)(A) of the Securitization and Reconstruction of Financial Assets and Investment of Security Interest Act, 2002 (hereinafter referred to as the "SARFAESI Act, 2002"). Since after rejecting the objection of the petitioners to the demand notice under Section 13(2) of the SARFAESI Act, 2002, the Authorized Officer has proceeded to issue a symbolic possession notice under Section 13(4) of the SARFAESI Act, 2002, the same is also under challenge in the present writ application.

Mr. Gautam Kumar Kejriwal, learned counsel representing the petitioners has drawn attention of this court towards Annexure-15 which is letter dated 03.11.2018 by which the Authorized Officer has taken a view that the demand notice under Section 13(2) has been issued in accordance with law and no illegality or arbitrariness has been be done by the authorized officer in the matter of issuance of the said demand notice calling upon the petitioners to pay the outstanding dues to the Bank.

Learned counsel submits that the letter, as contained in Annexure-15, does not deal with all the objections raised on behalf of the petitioners. It is his submission that the letter has been issued in a routine and mechanical manner. Learned counsel thus submits that this court should interfere with Annexure-15, quash the same and direct the authorities to reconsider the matter.

On the other hand, learned counsel representing the Bank submits that after issuance of the demand notice under Section 13(2) of the SARFAESI Act, 2002, the petitioner failed to show any discrepancy in the demand notice. The petitioners instead of raising any substantial objection, took various pleas with regard to his inability to pay and at this stage has tried to link the payment in this account with that of his entitlement to get certain capital subsidy from the State Government.

Learned counsel submits that in any view of the matter now that the Bank has already proceeded to take one of the measures mentioned under Section 13(4) of the SARFAESI Act, 2002 against which remedy lies to the petitioner under Section 17 by way of a securitization application before the Debts Recovery Tribunal, this writ application need not be interfered. Reliance in this regard has also been placed on the judgment of Hon'ble Supreme Court in the case of **United Bank of India Vs. Satyawati Tondon** reported in **(2010) 8 SCC 110.**

Having heard learned counsel for the parties and on perusal of the records, this court is of prima-facie opinion that at the stage of the consideration of the objection submitted by the petitioners, the Authorized Officer of the Bank has given reasons for rejection of those objections in an objective manner. The Bank has already proceeded with action under Section 13(4) of the SARFAESI Act, 2002 against which statutory remedy is available to the petitioner. Thus, it would not be just and proper for this court to exercise it's writ jurisdiction under Article 226 of the Constitution of India on the face of the pronouncements of the Hon'ble Supreme Court in the case of **Satyawati Tandan (Supra)**. The petitioners, may, thus approach the competent forum/Tribunal if he is aggrieved by the action of the Bank initiated under Section 13(4) of the SARFAESI

Act, 2002. While challenging the said action, all pleas shall be available to the petitioners which will be considered by the Tribunal concerned.

This application is thus disposed of in aforementioned terms.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	31.01.2019
Transmission Date	