

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18664 of 2017

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1. M/s Maa Laxmi Enterprises, Mahagani, Majhauria, West Champaran through its Proprietor Umesh Prasad son of Shri Rama Sah
 2. Umesh Prasad, Son of Shri Rama Sah, R/o village- Mahagani, P.O.- Majhauria, P.S.- Bettiah, District- West Champaran.

... .. Petitioner/s

Versus

1. Panjab National Bank Having its Head office at 7, Bhikaji Cama Place, Africa Avenue, new Delhi through its Managing Director
2. Punjab National Bank, Branch Office, Bettiah District West Champaran Bihar through its Chief Manager

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dhanendra Chaubey, Advocate
For the Respondent/s : Mr.Kumar Priya Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 26-08-2019 Heard learned counsel for the petitioners and
learned counsel for the Bank.

The petitioners in the present case has challenged the judgment dated 21.09.2017 passed by the Presiding Officer, Debts Recovery Tribunal, Bihar at Patna (hereinafter referred to as the 'Tribunal') in Original Application No. 145 of 2017.

By the impugned judgment the learned Tribunal has allowed the application under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 (hereinafter referred to as the 'Act of 1993') filed by the Bank. A sum of Rs. 19,60,024/- together with interest pendente lite and future at the rate of 10 % per annum simple from 01.12.2016 till realization of the entire



sum has been adjudged recoverable from the petitioners/certificate debtor.

Learned counsel for the petitioners submits that one of the submissions of the petitioners before the Tribunal was that prior to filing of the original application the Bank had initiated a certificate case bearing No. 129 of 2016-17 before the Certificate officer in which a sum of Rs. 13,53,985/- has been claimed by the Bank but when the original application was preferred, the Bank wrongly claimed a sum of Rs. 19,60,024/- by exaggerating the rate of interest. Further a sum, of Rs. 4,00,000/- which was received by the Bank on account of subsidy as back as on 27.01.2012 had not been duly accounted for. Attention of this Court has been drawn towards the observation of the Tribunal at one stage saying that “looking to the facts and circumstance of the case, the defendants deserve some leniency in the rate of interest”.

Learned counsel submits that recently the Bank sent a letter to the petitioners wherein they have shown their inclination to compromise the matter taking note of the amount for which the certificate proceeding was initiated.

Learned counsel for the Bank has opposed this application as according to him, the judgment under challenge is



appealable in terms of Section 20 of the Act of 1993 and in view of the judgment of the Hon'ble Apex Court in the case of **United Bank of India Vs. Styawati Tandon & Ors.** reported in **(2010) 8 SCC 110** (paragraph 43), there is no reason as to why a writ application be entertained.

It is submitted that so far as recently issued letter to the petitioners is concerned, that is an independent exercise and if the Bank has shown its willingness to compromise the matter taking note of the certificate amount, that will be an independent exercise to be taken and the petitioners if so advised may enter into a compromise on such terms and conditions as may be agreed between the parties.

Learned counsel submits that this much may be assured to the Court that any denial by this Court to entertain this writ application on the ground of their being any alternative remedy of appeal, would not stop on-going exercise and if the matter may be settled on compromise there will be no impediment in the same.

In the given facts and circumstances of the case, this writ application is being disposed of with liberty to the petitioners to seek their remedy against the impugned judgment in statutory appeal to be preferred before the Appellate Tribunal.



In case such an appeal is preferred within a period of 30 days from today, the same will be considered keeping in view the period spent by the petitioners before this court.

As a matter of independent action, it is made clear that the order of this Court relegating the petitioners to alternative remedy shall not come in the way of the Bank and the petitioners in entering into compromise.

The writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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