IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10140 of 2018

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1. Shree Ram Singh, Son of Late Jagarnath Singh, Resident of Village and Post Office- Fuhan, P.S.- Barhara, District- Bhojpur.
2. Smt. Lalti Devi, Wife of Shree Ram Singh, Resident of Village and Post Office- Fuhan, P.S.- Barhara, District- Bhojpur.
3. Shri Anjani Dubey, Son of Late Suresh Dubey, Resident of Village and Post Office- Fuhan, P.S.- Barhara, District- Bhojpur.

... ... Petitioners

Versus

1. Madhya Bihar Gramin Bank Through Its The Branch Manager of its Nathamalpur Branch, District – Bhojpur (Ara).
2. The Branch Manager of Nathmalpur Branch of Madhya Bihar Gramin Bank, District- Bhojpur Ara.
3. M/s Raj Automobiles through its Proprietor, Zero Miles Anaith, P.S.- Ara Nawada, District- Bhojpur

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr.Satish Chandra Mishra, Advocate
For the P.N.B.	:	Mr. Suresh Pd. Singh, No. 1, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 28-08-2019 Heard learned counsel for the petitioner and learned counsel representing the Bank.

Petitioner, in the present case, is seeking quashing of the order dated 12.02.2018 passed in O.A. Case No. 397 of 2017 by the Presiding Officer, Debts Recovery Tribunal, Patna.

Learned counsel for the petitioner submits still petitioner is looking for a settlement of account and for this purpose he has approached the Bank and talks are going on.

Learned counsel for the Bank submits that if the petitioner is willing to pay off the dues of the Bank, he may approach the authorities of the Bank for this purpose but for that reason there is no need to keep the writ application pending.

It is further submitted that the petitioners have got a remedy of statutory appeal in terms of Section 20 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the 'Act of 1993'), therefore, the extraordinary writ jurisdiction of this court need to be invoked. Reliance has been placed on the judgment of the Hon'ble Supreme Court in the case of **United Bank of India Vs. Satyawati Tondon** reported in **(2010) 8 SCC 110**, paragraph 43 of the judgment reads as under:-

> "43.Unfortunately, the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of

> taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute."

Having heard learned counsel for the parties and on perusal of the records this court finds no reason to entertain the present writ application as the petitioner has got an adequate and equal efficacious remedy of appeal. The Writ Application is, thus, not entertained. Liberty is granted to the petitioner to seek their remedy under the Act of 1993 before the appellate forum.

In case, any such appeal is preferred within a period of 30 days from today the same will be considered keeping in view the period spent by the petitioner before this court. It goes without saying that it will be open for the petitioner to approach the Bank for settlement of account on such terms and conditions as may be permissible under the recovery policy of the Bank and in case the petitioner approaches for that purpose, it will again be open for the Bank to consider the same in terms of it's policy.

The writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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