

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12031 of 2018

1. M/s Priyadarshi Motors Pvt. Ltd. a company registered under Indian Companies Act, 1956 having its registered office, plot no.11, Vishwesaraiya Nagar, Bailey Road, P.S.-Rupaspur, Patna through its Director, Nikhil Priyadarshi son of Sri Krishna Bihari Prasad Sinha, Plot No.11, Vishwaishraiya Nagar, Bailey Road, P.S.- Rupaspur, District- Patna.
2. Nikhil Priyadarshi son of Sri Krishna Bihari Prasad Sinha, R/o Plot No.11, Vishwaishraiya Nagar, Baliey Road, P.S.- Rupaspur, District- Patna.
3. Krishna Bihari Prasad Sinha son of Late Nageshwar Prasad, R/o Plot No.11, Vishwaishraiya Nagar, Baliey Road, P.S.- Rupaspur, District- Patna.
4. Manish Priyadarshi son of Krishna Bihari Prasad Sinha, R/o Plot No.11, Vishwaishraiya Nagar, Baliey Road, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

The State Bank Of India S A M B, Branch, Patna situated at 5th Floor, Zonal Office Building, J.C. Road, Anta Ghat, Police Station- Gandhi Maidan, Town and District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Ranjan
For the Respondent/s : Mr.Sanjiv Kumar.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

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

Petitioners in the present case are seeking to challenge the order dated 28.09.2017 passed in O.A. No. 761 of 2016 by which the learned Presiding Officer, Debts Recovery Tribunal, Patna has determined the debt due to the respondent Bank and has directed for issuance of a certificate of recovery against the certificate debtor for a sum of Rs.51,94,08,661/- together with pendentelite and future interest @ 10% per annum simple from



01.09.2016 till realization of the entire sum due and recoverable with costs. The petitioners have though challenged another order dated 13.09.2017 passed by the learned Tribunal in the same proceeding by which the petition filed by the defendant no.4 for obtaining expert's opinion under Section 45 of the Evidence Act regarding the veracity and genuineness of their signatures was rejected, learned counsel accepts the legal position that the order dated 13.09.2017 has now merged with the final order dated 28.09.2017 and in case the order dated 28.09.2017 will be tested before the appropriate court or tribunal, the contentions arising out of the challenge to the order dated 13.09.2017 shall remain open for consideration.

As regards the objection taken on behalf of the bank that the petitioners have moved this Court under Article 226 of the Constitution of India without exhausting the adequate and alternative equally efficacious remedy of appeal before the statutory forum provided under the Act of 1993, learned counsel for the petitioners submits that on perusal of the paragraph 23 of the impugned judgment it would appear that the learned Presiding Officer has recorded a finding that the applicant-bank had not properly satisfied the dispute as to the chargeability of the excess interest of Rs.3,51,82,410/- and the capitalized



penal interest which comes to Rs.29 lacs, but then the learned Presiding Officer has given the benefit of Rs.29 lacs to the petitioners by allowing the said amount to be deducted from the claim amount is also an admitted position.

Learned counsel for the bank submits that whatever be the contention of the petitioners with regard to chargeability of the rate of interest and capitalization of the penal interest the same may be looked into by the appellate authority but in absence of there being any case made out for interference, under Article 226 of the Constitution of India this Court need not exercise its high prerogative writ jurisdiction to entertain a challenge to the judgment of the Debts Recovery Tribunal. Attention of this Court has also been drawn towards 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).

Having heard learned counsel for the parties and on perusal of the records, this Court finds substance in the submissions of the learned counsel for the bank. No ground has been made out by learned counsel for the petitioners to entertain this writ application where admittedly the petitioners have not exhausted the alternative and equally efficacious remedy of



appeal provided under the Act of 1993 before the appellate authority within the prescribed authority. The writ application seems to have been filed almost 9 months after the judgment when the period of limitation for filing appeal (within 30 days) has already expired. In this connection, learned counsel for the bank has rightly brought to the notice of this Court paragraph 43 of the judgment of the Hon'ble Supreme Court in the case of Satyawati Tondon (supra).

For the aforesaid reasons, this Court finds no reason/ground to entertain this writ application. It is disposed off accordingly with liberty to the petitioners to seek alternative remedy, if any available, to the petitioners in accordance with law. If any such remedy is applied for and a question of limitation arises for consideration the same will be considered keeping in view the period spent by the petitioners before this Court.

(Rajeev Ranjan Prasad, J)

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