

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18958 of 2017

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Sri Kaushal Kishore @ Kaushal Kishor Son of Sri Jagat Nandan Singh,
Resident of village- Rampur Dumra, P.O.- Rampur Dumra, Block- Mokama,
Police Station- Maranchi, District- Patna, Proprietor of M/S Jai Bajrang
Balivermi Udyog.

... .. Petitioner/s

Versus

1. Punjab National Bank, Maranchi Branch, Block – Mokama, P.S. - Mokama,
District – Patna through its Branch Manager.
2. Branch Manager, Punjab National Bank, Maranchi Branch, Block- Mokama,
P.S.- Mokama, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Nath Choubey, Advocate
For the PNB : Mr. Rajan Ghoshrahe, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 26-08-2019 Heard learned counsel for the petitioner and

learned counsel for the Bank.

Petitioner in this case is aggrieved by the
judgment and order dated 14.08.2017 passed by the
Presiding Officer, Debts Recovery Tribunal, Patna in O.A.
No. 68 of 2017 as contained in Annexure ‘5’) by which on
an application preferred by the Bank under Section 19 of
the Recovery of Debts Due to Banks and Financial
Institutions Act, 1993 (hereinafter referred to as the ‘Act of
1993’) the learned Debts Recovery Tribunal (in short the
“Tribunal”) has held that the defendants-petitioners are



liable to pay a sum of Rs. 30 Lakhs with interest thereon at the rate of 10% per annum simple from 03.06.2016 till realization of the entire sum due and recoverable with costs..

Mr. Choubey, learned counsel representing the petitioners being fully aware of the view having been expressed by this court in similar matters started his submissions with the propositions and law down by the Hon'ble Supreme Court in the case of Madia Chemicals. Elaborating his submissions, learned counsel submits that this being a case in which the loan was advanced for agricultural purposes, the Bank was not justified in charging compounding rate of interest. He has also raised a grievance with respect to non-payment of the entire sanction amount and that there was no working capital provided to the petitioners.

Learned counsel for the Bank has opposed the application, as according to him, by no stretch of imagination it can be said to be a case in which the petitioner was advanced agricultural loan. Submission is that the financial assistance was provided by way of term



loan and cash credit facility for setting up a Unit of manufacturing of Vermin Compost and therefore only because the product of the Unit is used for agricultural purposes it cannot be said that the loan itself was advanced for agricultural purposes.

This court has gone through the impugned judgment of the learned Tribunal. The Court is not willing to make any comment over that for the simple reason that in similar cases this court has followed 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.”

This case being covered by observation of the Hon’ble Supreme Court, there being an adequate and equally efficacious remedy available to the petitioner, the writ application is being disposed of with liberty to the petitioner to seek his remedy before the appropriate forum. In case the statutory appeal is preferred within a period of 30 days from today before the appropriate forum/Tribunal the same will be considered keeping in view the period spent by the petitioner before this court.

(Rajeev Ranjan Prasad, J)

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