IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3565 of 2019

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Navneet Kumar S/o Ramesh Prasad Sharma Resident of E1 Professor Colony, Near Kendriya Vidyalaya Teachers Quarters, P.S. Kazi Mohamadpur, District- Muzaffarpur.

... ... Petitioner/s

Versus

1. The State of Bihar and Ors through Collector/District Magistrate, Muzaffarpur.
2. Collector/District Magistrate, Muzaffarpur.
3. Regional Manager, Allahabad Bank, Muzaffarpur Region, Muzaffarpur.
4. Zonal Manager, Allahabad Bank, Bihar.
5. Branch Manager, Allahabad Bank, Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Singh
For the Respondent/s : Mr.Raghwendra Kumar (Sc22)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 03-07-2019 Heard learned counsel for the petitioner and the Bank.

A counter affidavit has been filed on behalf of the bank. Let it be kept on the record.

Petitioner, in the present case, is grandson of the guarantor of the loan. He has moved this Court challenging the notice issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the ‘Act of 2002’) and notice under Section 14 of the Act of 2002 issued from the office of the respondent no.2 as contained in Annexure-7 to the writ application.

Learned counsel for the petitioner submits that the entire transaction in which the grandfather of the petitioner is said to be a gurantor, the signature of his grandfather was forged by one of his relations in connivance with the borrower who was tenant in the house of the petitioner.

In the counter affidavit the bank has enclosed the copies of the letters said to have been written by grandfather of the petitioner in the bank expressing his desire to settle the account. Learned counsel for the bank submits that the various factual aspects which are submitted before this Court are in the nature of the intensely disputed questions of fact and this Court sitting in its writ jurisdiction under Article 226 of the Constitution of India would not record finding of fact. It is also submitted that the petitioner has a remedy available against the impugned action in accordance with Section 17 of the Act of 2002, therefore, writ is not remedy correctly applied for.

Having heard learned counsel for the parties, this Court is of the considered opinion that once the notice under Section 13(4) of the Act of 2002 has been issued, the petitioner has got cause of action to seek his remedy by filing a securitisation application in terms of Section 17 of the Act of 2002 before the Debts Recovery Tribunal.

On the face of the statutory remedy available to the petitioner, this writ application is not fit to be entertained. It is dismissed Accordingly.

(Rajeev Ranjan Prasad, J)

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