

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5674 of 2019

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Smt. Sarita Devi @ Sarita Devi, Proprietor of M/s. Maa Durga Trading, Wife of Sri Radhey Shyam Singh, Resident of Village - Labedahan, Post Office- Deohaliya, Police station- Ramgarh, District- Kaimur(Bhabua).

... .. Petitioner/s

Versus

1. The General Manager, State Bank of India Judges Road, Patna.
2. The Regional Manager State Bank of India, Judges Road, Patna.
3. The Assistant Manager Stressed Assets Recovery Branch, State Bank of India, IInd Floor, Patna Main Branch, West Gandhi Maidan, Patna.
4. The Branch Manager State Bank of India, Agricultural Development Branch, Bhabua, District- Kaimur (Bhabua).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Satish Kumar Singh
For the Respondent/s	:	Mr.Binod Bihari Sinha, Adv.
		Mr. Ajay Dutt Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 22-11-2019 It appears that the present writ application has been filed challenging the demand notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the ‘SARFAESI Act, 2002’).

Learned counsel for the bank submits that the issuance of demand notice under Section 13(2) of the SARFAESI Act, 2002 does not give a cause of action to the petitioner and it has been settled by the Hon’ble Supreme Court in the cases of **Mardia Chemicals Ltd. & Ors. Vs. Union of India & Ors.** reported in (2004) 4 SCC 311 as well as **ITC**



Limited Vs. Blue Coast Hotel Pvt. Ltd. reported in **AIR 2018 SC 3063**. It is further submitted that the debt of the petitioner has already been determined in O.A. No.847 of 2018 vide judgment dated 23.05.2019 passed by the learned Debts Recovery Tribunal, Patna. It is further submitted that the petitioner will have a cause of action only when the authorized officer of the bank proceeds under Section 13(4) of the SARFAESI Act, 2002 and against that action the petitioner may seek her remedy under Section 17 of the SARFAESI Act, 2002 before the D.R.T.

In the aforesaid view of the matter, this Court finds substance in the submission of learned counsel for the bank.

This writ application seems to be misconceived and is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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