IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9276 of 2019

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Nitesh Kumar Singh, aged 33 years, Male, S/o Shio Prasad Singh Indradhanush Automobile Pvt Ltd through its Director At and P.O. Karur, P.S. Karakat, Dist-Rohtas.

... ... Petitioner

Versus

1. Presiding Officer, Debt Recovery Tribunal Ashiana Digha Road, Patna-800025.
2. Chairman State Bank of India Madam Cama Road, Mumbai-400021
3. The Branch Manager State Bank of India, Bikramgunj Branch, Rohtas
4. State Bank of India Stressed Recovery Branch (SARB) at 2nd Floor of its Patna Main Branch Building, West Gandghi Maidan, Patna-800001.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Prasad, Sr. Advocate Mr.Prakash Sahay, Advocate
For the Resp. Bank	:	Mr. Sanjiv Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 02-09-2019 Heard learned Senior Counsel for the petitioner and learned counsel for the Bank.

Petitioner, in the present case, is aggrieved by and dissatisfied with the judgment and order dated 01.08.2018 passed in O.A. No. 42 of 2018 by which the certificate debtors including the petitioner have been found liable to pay a sum of Rs. 1,16,62,276/- as on 28.05.2017 together with *pendente lite* and future interest @ 10% p.a. simple from 29.05.2017 till realization of the entire sum due and recoverable with costs.

The writ application has been preferred after about one year and eight months from the date of passing of the impugned judgment and issuance of the certificate of recovery.

Learned Senior Counsel for the petitioner submits that petitioner was looking for settlement of account in question but because the Bank has charged exaggerated interest, outstanding has gone high and the offer of the petitioner to settle the account has been rejected by the Bank. It is submitted that petitioner is still ready to approach the authorities of the Bank to liquidate the loan.

Learned counsel for the Bank submits that so far as the present writ application is concerned, the judgment and certificate of recovery issued by the Debts Recovery Tribunal is appealable 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'). It is submitted that there being an adequate and equal efficacious remedy available to the petitioner which the petitioner failed to avail within the prescribed period of limitation, there is no reason as to why the present writ application be entertained. Reliance in this regard has also been made 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.**

Learned counsel for the Bank further submits that if the petitioner is still willing to pay of the dues of the Bank, he may approach the Bank for the same and on making the said approach, the Bank will consider the same in terms of the it's recovery policy.

In the given facts and circumstances of the case the writ application, in the opinion of this court, cannot be entertained. Paragraph 43 of the judgment of the Hon'ble Apex Court in the case of **Satyawati Tondon (supra)** 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."

No reason has been shown to this court so as to persuade it to interfere with the judgment dated 01.08.2018 on any of the permissible proposition of law to entertain the writ application.

The petitioner, if so advised, may seek

his remedy of statutory appeal before the appellate forum and in such appeal if a question of limitation arises for consideration the same will be considered keeping in mind the period spent by the petitioner before this court.

This court has not gone into the merit of the contentions of the parties and it will be for the appellate authority to consider the same. If the petitioner still approaches the Bank for payment of outstanding dues, the authorities of the Bank shall consider the same in accordance with it's policy decision and recovery policy of the Bank, that would however be an independent matter.

The Writ Application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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