

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14673 of 2019

Prabha Devi aged 56 years, Female, W/o Sri Tej Pratap Singh Resident of 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 Gandhi Maidan, Patna 800001

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Prakash Sahay, Advocate
For the Respondent/s : Mr.Sanjiv Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 03-09-2019 Petitioner, in the present case, is seeking to challenge the judgment and order dated 01.08.2018 passed by learned Presiding Officer, Debts Recovery Tribunal, Patna in O.A. No. 42 of 2018. The impugned order has been passed by the learned Presiding Officer in exercise of his power under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the 'Act of 1993').

This has been a consistent view of this court that where there is an adequate and equal efficacious



remedy of appeal available in terms of Section 20 of the Act of 1993 and the petitioner has failed to avail that remedy, the writ application need not be entertained. This court finds it's strength from 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."

In the present case the petitioner has moved



this court without exhausting alternative remedy of appeal after about eight months from the date of passing of the judgment. In course of hearing, however, learned counsel for the petitioner insisted upon a submission that the Unit in question had availed the loan facility under C.G.T.M.S.E. Scheme which is meant for the micro and small enterprises but the bank had not given the benefit of the said scheme to the defendants and arbitrarily declared the account Non-Performing Asset (NPA).

This court finds from the impugned judgment that the learned Presiding Officer has dealt with the said submission and has recorded as under:

“So far as the dispute regarding coverage by the Central Government under CGTMSE, is concerned, on perusal of sanction letter annexure-2, nowhere mentioned in the sanction letter as the credit facilities were advanced under CGTMSE scheme, it is clear from the sanction letter that the credit facilities were sanctioned against the hypothecation and equitable mortgage of land and building.”

This court called upon learned counsel for the



petitioner to demonstrate from the pleadings available in the writ application as to whether he has assailed the aforesaid finding of the Presiding Officer of the Tribunal, learned counsel admits that the said finding has to remain stayed.

This court finds no reason to entertain the present writ application. Petitioner, if so advised, she may seek remedy of statutory appeal before the appellate authority in accordance with law. In case such appeal is preferred and a question of limitation arises for consideration, the appellate authority shall keep the period spent by the petitioner before this court in the present proceeding.

The Writ Application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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