

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6426 of 2019

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1. M/s Bharadwaj Hotel and Resorts Private Limited through its Managing Director Samrendra Kumar, C/o M/s. Bhardwaj Distributors, Navratan Hata, NVI Office, N.H.- 31, P.S. and District- Purnea (Bihar).
 2. Samrendra Kumar Son of Late Sweendra Prasad Thakur C/o M/s Bhardwaj Distributors, Navratan Hata, NVI Office, N.H.-31, P.S. and District- Purnea (Bihar).
 3. Smt. Ruby Kumari Wife of Shri Samrendra Kumar C/o M/s. Bhardwaj Distributors, Navratan Hata NVI Office, N.H.-31, P.S. and District- Purnea (Bihar).

... .. Petitioner/s

Versus

1. Housing and Urban Development Corporation Limited, (HUDCO).
2. The Managing Director, Housing and Urban Development Corporation Limited, Housing and Urban Development Corporation Limited, (HUDCO).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha, Advocate
For the Respondent/s : Mr.Prashant Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 27-08-2019 After hearing learned counsel for the petitioner and learned counsel representing the Financial Institution, this Court finds no reason to interfere with the appellate order passed by the Debts Recovery Appellate Tribunal i(hereinafter referred to as the ‘Appellate Tribunal’) in Appeal (T) No. 127 of 2013.

The Appellate Tribunal has rightly recorded that once by a judgment passed on 15.03.2012 in O. A. No. 89 of 2012 the Debts Recovery Tribunal, Patna (hereinafter referred to as the ‘Tribunal’) had issued a certificate of recovery for Rs. 1,05,34,925/- as on 15.02.2012, there was no reason why the



same Tribunal will entertain a Miscellaneous Application as has been done in the present case virtually taking away the effect of the certificate and re-writing the judgment directing the Financial Institution to settle the account at Rs. 90 lakhs. The exercise of power by the Tribunal being wholly arbitrary and without jurisdiction it has been rightly set at naught by the Appellate Tribunal.

It is evident from the records that the petitioners are virtually looking to get rid of the judgment of certificate of recovery passed in O.A. No. 89 of 2012. The judgment is appealable in terms of Section 20 of the Recovery of Debts Due to Banks and Financial Institutions Act 1993. The said judgment and certificate of recovery has to be appealed in accordance with the provisions of the Special Statute which has not been done so far.

Learned counsel for the petitioner submits that the petitioners are looking for settlement of the loan amount.

If it is so, this Court is of the opinion that there is no impediment in the way of the petitioners approaching the Financial Institution with an offer to settle the Account in accordance with its policy decision. This will, however, not come in the way of the Financial Institution in proceeding with



the recovery arising out of the judgment passed in the original application.

This writ application stands disposed of with the aforesaid observations.

(Rajeev Ranjan Prasad, J)

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