IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11457 of 2013

==

M/s Babu Cold Storage, representing by its Managing Partner, Sarfaraz Alam, S/O Mahmood Alam, At Near Singhia Chouk, Kishanganj, Pin Code- 855107

... ... Petitioner/s

Versus

1. The Chairman Cum Managing Director, Central Bank Of India, Through the Zonal Manager, Central Bank of India, Zonal Office, Patna, Mauryalok Complex, B. Block, Dakbunglow Road, Patna- 800001
2. The Authorized Officer Cum Regional Manager, Central Bank Of India, Purnia Region, Sneh Bhawan, Bhatta Road, Purnia
3. The Senior Branch Manager, Central Bank Of India, Main Branch, Hospital Road, Kishanganj, District- Kishanganj
4. The District Magistrate, Kishanganj

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr.Dr. Binay Kumar Singh, Adv.
For the Respondent/s	:	Nutan Sahay, AC to AAG12
For the Bank	:	Mr. Ajay Kr. Sinha, Adv.

==

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

7 29-01-2019 In view of the statutory remedy under Section 17 of the Securitisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFESAI Act, 2002) available to the petitioner, learned counsel representing the petitioner submits that he may be allowed to pursue his remedy before the Debts Recovery Tribunal, Patna. It is submitted that all questions which he has raised in the present writ application should be left open for consideration by the Tribunal. One of the issues which learned counsel for the petitioner has raised in the present application is that the property in question is not a 'secured asset' in the hand

of the Bank.

Mr. Ajay Kumar Sinha, learned counsel representing the Bank submits that in fact, in view of the statutory alternative remedy available to the petitioner and the Judgment of the Hon'ble Supreme Court in the case of **United Bank of India v. Satyawati Tondon** reported in **2010 (8) SCC 110**, this writ application is not fit to be entertained but the Bank would have no objection to the petitioner if he seeks his remedy before the Debts Recovery Tribunal. However, learned counsel submits that the objections of the Bank should also remain open.

In the given facts and circumstance and in the nature of the submissions made at the Bar, this writ application is permitted to be withdrawn with liberty to the petitioner to seek his remedy if any available in terms of the SARFESAI Act, 2002 before an appropriate Forum/Tribunal. Both the parties will have the liberty as prayed for.

At this stage, learned counsel for the petitioner submits that he apprehends that the Bank may take a plea of limitation before the Debts Recovery Tribunal.

In the opinion of this Court, the apprehension of learned counsel for the petitioner is misplaced. The writ application is pending in this Court since 20.06.2013. If the petitioner while seeking condonation of delay, if any, by filing an appropriate application will also pray for the benefits of the pendency of the writ application before this Court in terms of Sections 14 of the Limitation Act, the same shall be considered by the Forum/Tribunal

The writ application is disposed of, accordingly.

The Interlocutory Applications also stand disposed of, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.OJha/-

U			