

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19249 of 2015

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Abhishek Abhiranjan S/o Late - Bibhuti Bhusan Singh, Resident of Baghi,
P.S. - Begusarai Town, District - Begusarai.

... .. Petitioner/s

Versus

1. Chief Manager, State Bank Of India, Begusarai Branch, Begusarai.
2. Regional Manager, State Bank of India, Chetria Vyavsai Karyalaya, Har Har Mahadeo Chouk, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pramod Kumar Singh, Advocate
For the Bank	:	Mr.Kaushlendra Kumar Sinha, Advocate Mr. Sunil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 27-08-2019 Mr. Pramod Kumar Singh, learned counsel whose name appears in the daily cause list for and on behalf of the petitioner submits that the petitioner has taken a change of lawyer and he had taken away the brief from the Chambers of the learned Advocate. Learned counsel for the Bank is present.

No fresh Vakalatnama has been filed in this case.

As the writ application is pending since the year 2015 and there is an interim order passed as back as on 22.12.2015 staying further steps pursuant to the possession notice dated 26.11.2015 issued by the Authorized Officer of the Bank, this Court deems it just and proper to dispose of



the writ application on the basis of the materials available on the record.

On perusal of the writ application it appears that the petitioner has moved this court against the action taken by the Bank under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act of 2002').

In the writ application the petitioner has set up a case under paragraph '14' that the impugned action has been taken by the Bank in contravention of Section 13(3-A) of the Act of 2002 inasmuch as the Bank has not disposed of the representation filed by the petitioner. With the writ application, however neither any copy of the said representation has been annexed nor the mode of submission or dispatch thereof has been mentioned.

The Bank has filed a counter affidavit in which the stand of the petitioner has been controverted by making a specific statement in paragraph '5' of the counter affidavit that the petitioner had neither approached the respondent orally nor had filed any so-called representation after receiving the notice



under sub-section (2) of Section 13 of the Act of 2002. It is only after the respondent Bank disclosed its stand in the counter affidavit, the petitioner has filed a rejoinder enclosing therewith a letter dated 30.09.2015 as contained in Annexure '4' to the rejoinder and a submission has been made that this is the copy of the representation which was submitted by hand to the Chief Manager of the Bank. Annexure '4' however does not show any acknowledgment of receipt and affidavit rejoinder does not disclose the name even of that Chief Manager to whom representation was handed over. No date of submission has been disclosed.

Learned counsel for the Bank has submitted before this court that at the outset this writ application is not fit to be entertained on the ground of there being an adequate and equal efficacious remedy of filing a securitization application under Section 17(1) of the Act of 2002.

Attention of this court has also been drawn towards the observations 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 which would be relevant to quote hereunder: -



"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."

Learned counsel for the Bank has also submitted that at belated stage the petitioner has come



out with Annexure '4' attached to his rejoinder which does not inspire confidence as it neither bears any acknowledgment of the Chief Manager nor there is any explanation in the rejoinder as to why there is no acknowledgment of the letter and further that the petitioner made a bald statement in the writ application with regard to his representation without annexing the same at the first instance.

Having gone through the records and on the face of the judgment of the Hon'ble Supreme Court in the case of **Satyawati Tondon (supra)** this court finds no reason to entertain the present writ application. The petitioner, if so aggrieved may seek his remedy in accordance with law before appropriate forum.

The Writ Application stands disposed of accordingly.

The interim order stands vacated.

(Rajeev Ranjan Prasad, J)

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