

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.308 of 2018

1. M/s Pawapuri Ultrasound Centre in front of Sadar Hospital, P.S. - Nawada Town, District – Nawada through it's Proprietor, Dr. Sadhu Sharan Singh, S/o Late Ram Sanchi Singh resident of Mohalla - Malgodam, Chhai Road, P.S. - Nawada Town, District - Nawada.
2. Dr. Sadhu Sharan Singh S/o Late Ram Sanchi Singh resident of Mohalla - Malgodam, Chai Road, P.S. - Nawada Town, District - Nawada.

... .. Petitioner/s

Versus

Vijaya Bank, Geeta Bhawan, Kadamkuan Branch, Patna through it's Branch Manager.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar, Advocate Mr. Rajeev Nayan, Advocate
For the Respondent/s	:	Mr. Anshay Bahadur Mathur, Advocate Mr. Umapati Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 26-08-2019 Heard learned counsel for the petitioner and learned counsel for the State as well as Bank are present.

It appears that the writ application has been preferred against the judgment and the Certificate issued by the Debts Recovery Tribunal in exercise of it's power under Section 19 of the Recovery of Debts due to Banks, Financial Institutions Act, 1993 (hereinafter referred to as the 'Act of 1993') learned counsel for the Bank is correct in saying that the impugned judgment is an appealable judgment in terms of Section 20 of the Act of 1993 and if the petitioner has not availed the statutory remedy of appeal there is no reason why a writ application be



entertained at this stage by this court particularly in view of 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**. Your Lordships have observed in paragraph 43 of the judgment which 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 given facts and circumstances of the case, the writ application is dismissed but with liberty to the petitioner to avail his remedy if any available in accordance with law.

(Rajeev Ranjan Prasad, J)

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