

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1847 of 2018

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1. M/s Sisodia Motors Pvt. Ltd. Through Sri Santosh Sisodia, Managing Director, Anu Kunj, Anandgarh Colony Tilka Manjhi Bhagalpur.
 2. Santosh Sisodia, Son of Sri Sadanand Singh, Managing Director, Anu Kunj Anandgarh Colony Tilka Manjhi Bhagalpur
 3. Smt. Anita Singh, Wife of Sadanand Singh, R/o Anu Kunj Anandgarh Colony, Tilka Manjhi, Bhagalpur.

... .. Petitioners

Versus

1. State Bank Of India, Stressed Assets Management Branches, at 5th Floor, Zonal Office Building, Judges Court Road, Patna-1.
2. The Presiding Officer Debts Recovery Tribunal, Karpuri Thakur Sadan Aashiana Digha Road at Patna.
3. Smt. Sonya Sisodia, Wife of Sri Santosh Sisodia, Director.

... .. Respondents

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 27-08-2019 Heard learned counsel for the petitioners and
learned counsel for the Bank.

Petitioners in the present case are aggrieved by the judgment and certificate of recovery dated 28.08.2017 passed in O.A. No. 176 of 2017 by the learned Presiding Officer, Debts Recovery Tribunal, Patna.

It appears from the impugned judgment that the petitioners being certificate debtors have been held liable to pay a sum of Rs. 4,80,24,235/- with *pendente lite* and future interest @ 10% per annum simple from 01.03.2017 till



realization of entire sum.

Mr. Khurshid Alam, learned counsel for the petitioners submits that within the limited scope of the case the petitioners are looking for a settlement of the account and in fact an offer has also been submitted with the Bank to consider such settlement.

Learned counsel further submits that he is aware of the legal position that there is a statutory provision of appeal against the impugned judgment and certificate of recovery before the Debts Recovery Appellate Tribunal, but in the facts of the present case where the petitioners are looking for a settlement he would request this court to allow him an indulgence in the matter.

Mr. Alam, learned counsel for the petitioners has informed this court that according to the petitioners now only a sum of Rs. 1,80,00,000/- (Rupees One Crore Eighty Lakhs only) is liable to be paid to the Bank out of which petitioners have already deposited Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) during pendency of this writ application. Learned counsel has also informed that yesterday the Bank has issued communication showing



their intention to go for the settlement.

Learned counsel for the Bank has opposed the writ application on the ground *inter alia* that the judgment and the certificate of recovery is appealable under the special statute, there is no reason as to why a writ application be entertained. Reference in this regard has also been made in paragraph 43 of the judgment of the Hon'ble Apex Court in the case of **United Bank of India Vs. Satyawati Tondon** reported in **(2010) 8 SCC 110**, where it has been observed by the Hon'ble Supreme Court that when it comes to recovery of public money and Banks dues the rigour of the principles of alternative remedy would apply with more vigour.

Learned counsel for the Bank has further submitted that twice the one time settlement offer made by the petitioner has failed and as such the petitioners should be liable to pay the entire outstanding.

Having heard learned counsel for the petitioner and learned counsel representing the Bank, this court is of the considered opinion that on the face of the petitioner having an adequate and equal efficacious remedy of appeal



under the special statute itself, there is no reason as to why the present writ application be entertained. The writ application is, thus, disposed of with liberty to the petitioners to seek their remedy of appeal in terms of the special statute before an appropriate forum. In case any such remedy is applied for, the appellate forum shall consider the same and the question of limitation, if any, will be considered keeping in view the period spent by the petitioner before this court in the present proceeding.

It is also made clear that if the Bank is considering any proposal for settlement of the account and/or the Bank is willing to consider the same in terms of its recovery policy or any settlement scheme it will remain open for the Bank to go for such settlement.

The writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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