

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19727 of 2018

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1. Maa Bhawani Engicon Pvt. Ltd. Represented by Sanjay Kumar, Director having Registered Office at E102, Sumit Chandra Graham Apartment, Ram Nagri Road, Ashiana Nagar, Patna-800025.
 2. Sanjay Kumar, S/o- Shri Bhawnath Das (Director), R/o E102, Sumit Chandra Graham Apartment, Ram Nagri Road, Ashiana Nagar, Patna-800025.
 3. Mrs. Mridula Kumari, W/o- Sanjay Kumar, at Sumit Chandra Graham Apartment, Ram Nagri Road, Ashiana Nagar, Patna- 800025.

... .. Petitioners

Versus

1. The Presiding Officer, Debts Recovery Tribunal, Patna at Karpuri Thakur Sadan, Aasiyana, Digha Road, Patna-800025.
2. Punjab National Bank, having head Office at New Delhi, through it's Managing Director.
3. Branch Manager, Punjan National Bank, East Gandhi Maidan Road, Patna.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Navesh Nandan, Advocate
For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 30-08-2019 Heard learned counsel for the petitioners. No one appears for the Bank.

Petitioners in the present case are aggrieved by and dissatisfied with the order dated 13.09.2018 passed by the learned Presiding Officer, Debts Recovery Tribunal, Patna (in short 'Tribunal') in SARFAESI Application No. 147 of 2018 by which a challenge made to an action taken under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Interest Act, 2002 (hereinafter referred to as the



‘Act of 2002’) by the authorised officer of the Bank has been rejected.

Learned counsel for the petitioners submits that it was mandatory upon the Bank to consider the objection preferred by the petitioners to the notice under Section 13(2) of the Act of 2002 but that was not done and hence the action taken under the Act of 2002 is fit to be interfered with.

It appears from the reading of the impugned order that as a matter of fact the submission of respondent Bank before the Tribunal was that pursuant to the demand notice dated 05.01.2018 the defendants-petitioners had filed a representation only on 05.06.2018 that is after a lapse of four months and this fact has been admitted by learned counsel for the applicants before the learned Tribunal.

Learned counsel for the petitioners is unable to demonstrate from the pleadings that the admission on the part of the applicants to the effect that the objection/representation was filed four months after the demand notice was served, was not correct or it is factually incorrect. Be that as it may for the present, this Court finds that the petitioners have got an alternative equally efficacious remedy of appeal against the order dated 13.09.2018 passed by the learned Presiding Officer



of the Tribunal in S.A. No. 147 of 2018. On the face of there being an adequate and equally efficacious remedy available to the petitioners before the appellate authority, this Court finds no reason to entertain the present writ application particularly keeping in view the judgment of Hon'ble Apex Court in the case of **United Bank of India vs. Satyawati Tondon** reported in **(2010) 8 SCC 110** (Paragraph 43).

The writ application is, thus, disposed off as not entertained with liberty to the petitioners to avail their remedy, if so advised, before the appellate authority in accordance with law. If any such appeal is preferred by the petitioners within a period of 30 days from today and a question of limitation arises for consideration, the same will be considered keeping in view the period spent by the petitioners before this Court in the present proceeding.

The writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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