

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22448 of 2018

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1. M/s Suraj Healthcare Through its Prop. Shambhu Sharan Verma S/o Sri Chhotan Prasad, R/o Shiv Nagar, Khemnichak, Road No.1, Patna- 800026.
 2. Shambhu Sharan Verma, S/o Sri Chhotan Prasad, R/o Flat No.103, Hardev Enclave Apartment, Kali Mandir, Hanuman Mandir, Patna, 800020.

... .. Petitioners

Versus

1. Indian Overseas Bank, A company registered under Indian Companies Act, through its Managing Director, office at Boring Road Branch, Patna.
2. The Regional Manager, Indian Overseas Bank.
3. The Branch Manager, Indian Overseas Bank, Boring Road Branch.
4. The Recovery Officer, DRT, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Krishna Mohan Mishra, Advocate
For the Bank	:	Mr.Sanjay Singh Thakur, Advocate
		Mr.Bana Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 30-08-2019 Heard learned counsel for the petitioners and learned counsel representing the Bank.

Petitioner in the present case is seeking to challenge the order dated 27.02.2018 passed by the learned Presiding Officer, Debts Recovery Tribunal, Patna (in short ‘Tribunal’) in O.A. No. 324 of 2017. This is an order passed by the learned Presiding Officer of the Tribunal in exercise of his power under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the ‘Act of 1993’). Learned counsel for the petitioners submits that



the Bank had wrongly declared the amount a non performing Asset (NPA) which fact the Tribunal could not appreciate while passing the impugned order and hence this writ application has been preferred.

On the other hand, learned counsel for the Bank submits that whatever be the contention of the petitioners, this writ application is not fit to be entertained on the solitary ground that the petitioners had got an adequate and alternative equally efficacious remedy of appeal in terms of Section 20 of the Act of 1993 within a period of 30 days from the date of the impugned judgment and order which the petitioners have failed to avail. It is submitted that almost nine months after the impugned judgment and certificate of recovery has been issued, the present writ application has been filed. Learned counsel for the Bank has also relied upon a judgment of the Hon'ble Apex Court in the case of **United Bank of India Vs. Satyawati Tondon and others** reported in **(2010) 8 SCC 110** with emphasis of Paragraph '43' of the said judgment.

Having heard learned counsel for the parties and on perusal of the records, this Court is of the considered opinion that on the face of there being an adequate and equally efficacious remedy available to the petitioners under



the Act of 1993 itself which the petitioners have failed to avail there is no reason as to why this Court entertains the present writ application to consider a challenge to the order passed by the Tribunal. Paragraph '43' of the judgment in the case of **Satyawati Tondon** (supra) 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, the 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 aforesaid view of the matter, the writ application is not entertained and is being disposed of with liberty to the petitioners to seek their statutory remedy of appeal, if so advised, in accordance with law if any such appeal is preferred 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.

The writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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