

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21123 of 2018

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M/s Shashi Bhushan Cold Storage Pvt. Ltd. Through Its Managing Director
having its registered office at Vill. +P.O.-Berui, Via-Baniapur, District-Saran

... .. Petitioner

Versus

1. Housing And Urban Development Corporation Ltd., Regional Office at 2nd Floor, Block B/2, Mauryalok Complex, Dak Bungalow Road, Patna, Bihar through its Authorised Officer.
2. The Regional Chief, Housing and Urban Development Corporation Ltd., Regional Office at 2nd Floor, Block B/2, Mauryalok Complex, Dak Bungalow Road, Patna, Bihar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar, Advocate
For the Respondent/s : Mr.Sanjay Singh Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

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

Petitioner, in the present case, is aggrieved by and dissatisfied with the judgment dated 02.08.2018 passed by the Debts Recovery Appellate Tribunal, Allahabad (in short 'Tribunal') in Appeal No. R-200 of 2013 and Appeal Sr. No. 195 of 2015.

It appears that by the impugned judgment the appeal preferred by the Housing and Urban Development Corporation Limited (hereinafter referred to as the 'HUDCO') has been allowed by setting aside the order dated 26.08.2013 passed by the Debts Recovery Tribunal, Patna (in short 'DRT') directing



the appellant to release a sum of Rs. 30,00,000/- in favour of the petitioner. The appeal preferred by the borrowers being Appeal Sr. No. 195 of 2015 has been dismissed and the Tribunal has been directed to decide the original application after affording opportunity of hearing to the parties in accordance with law without being influenced by the observations made by the Tribunal below.

The facts, as revealed from the record, would show that when the 'HUDCO' preferred an application under Section 19(1) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the 'Act of 1993') for issuance of a certificate of recovery, the Presiding Officer of the DRT accepted the submission of the defendants-borrowers that the 'HUDCO' had not released part of the sanctioned amount and then the Presiding Officer directed the Recovery Officer to conduct an enquiry by visiting on spot and submit a report. On receipt of the report, the DRT directed the 'HUDCO' to release a sum of Rs. 30,00,000/- within 15 days to the borrowers, this order being an order wholly without jurisdiction, the appeal was preferred before the appellate authority.

Although learned counsel for the petitioner has



agitated the issues which have been dealt with in the judgment of the appellate authority, learned counsel for the Bank is correct in saying that the order, passed by the Presiding Officer of the DRT, was wholly without jurisdiction and has rightly been set aside by the appellate authority.

This Court finds force in the submission of the learned counsel for the Bank inasmuch as it will appear that under Section 19(1) of the Act of 1993 by no stretch of imagination the Presiding Officer could have assumed upon himself a power to direct the Recovery Officer to conduct a verification of the spot and then submit a report for purpose of release of the amount. Such power is not being vested with the Presiding Officer, he had apparently gone beyond his jurisdiction and the order passed by him was perverted, which can not be allowed to sustain. The appellate order is in accordance with law and needs no interference by this Court.

The writ application is dismissed.

(Rajeev Ranjan Prasad, J)

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