

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15218 of 2017

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Ratna Devi wife of Arvind Kumar resident of Christian Colony at New Kurji
More P.S. Digha, Distt. Patna.

... .. Petitioner/s

Versus

1. Regional Manager Bank Of Baroda at Kurji More, near Loyala High School,
P.S. - Digha, District – Patna.
2. The Branch Manager Bank of Baroda at Kurji More Branch near Loyala
High School PS Digha, Distt. Patna.
3. Presiding Officer Debt Recovery Tribunal, Patna Karpuri Thakur Sadan
Ashiana Digha Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mukesh Kumar Singh, Advocate
		Mr. Shivpujan Singh, Advocate
For the Respondent/s	:	Mr.Ratnesh Nandan Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 05-09-2019 Heard learned counsel for the petitioner and

learned counsel for the Bank.

Petitioner, in the present case, is seeking

setting aside of the judgment dated 30.03.2016 passed

in O.A. No. 319/2015. By the impugned judgment, the

learned Presiding Officer, Debts Recovery Tribunal,

Patna has adjudged the liability of the certificate

debtors-petitioners and found them liable to pay a sum

of Rs. 24,37,720/- along with *pendente lite* and future

interest at contractual rate from 09.07.2015.



Learned counsel for the petitioner submits that he has assailed the impugned judgment before this Court because the learned Tribunal could not appreciate his contention that certain loan papers such as sanction letter and other documents were not made available to the petitioner.

Learned counsel for the Bank submits this writ application is wholly misconceived inasmuch as 18 months after the judgment was delivered and certificate of recovery has been issued against the petitioner, the petitioner has moved this court under Article 226 of the Constitution without exhausting the adequate and alternative remedy of appeal provided under Section 20 of the recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the 'Act of 1993'). Learned counsel has also relied upon 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**.



Having heard learned counsel for the parties and on perusal of the records, this court finds substance in the submission of learned counsel for the Bank. The submissions made by learned counsel for the petitioner are required to be rejected at the outset, because, at this stage, when the judgment has already been delivered and it is not in dispute that the petitioner had availed the financial assistance from the Bank such pleas are only for the sake of argument without having any substance. 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, 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 facts and circumstances, the writ application is not entertained. It is being disposed off with liberty to the petitioner to seek her remedy of appeal before the appellate authority in terms of the Act of 1993. If such remedy is applied for and a question of limitation arises for consideration, the same will be considered keeping in mind the period spent by the petitioner before this court in the present proceeding.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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