

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3917 of 2017

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1. M/s Chaudharu Motors having its registered office situated at Harhar Mahadev Chowk, N.H.31, Begusarai through one of its partner namely Balram Kumar Choudhary, S/o Sri Yadunandan Choudhary, Resident of Village + P.O.- Rani, P.S. Bachwara, District- Begusarai.
 2. Balram Kumar Choudhary, S/o Sri Yadunandan Choudhary, Resident of Village + P.O.- Rani, P.S.- Bachwara, District- Begusarai.
 3. Ajit Kumar Choudhary, Son of Vijay Kumar Choudhary, Resident of Village- Chakdaulat, P.S.- Ujiyarpur, District- Samastipur.

... .. Petitioners

Versus

1. The Chief Manager Cum Authorized Officer, State Bank of India, Barauni Refinery, Township Branch, Begusarai.
2. The Chief Manager (Rural) State Bank of India, Regional Branch Office (R.B.O.), Begusarai, Above G.S. Motors, N.H. 31, Harhar Mahadev Chowk, Begusarai.
3. The Regional Manager, Regional Branch Office R.B.O., State Bank of India, Begusarai, Above G.S. Motors, N.H. 31, Harhar Mahadev Chowk, Begusarai.
4. Ashok Prasad Shah S/o Late Ramadhar Ramadhar Prasad Shah, Resident of Opposite N.H. 31, Nyaya Marg, Pokharia, Begusarai, Pin Code – 851101,

... .. Respondents

Appearance :

For the Petitioner/s	:	None
For the Intervenor	:	Mr.S. Roy, Advocate
		Mr.Gaurav Pratap, Advocate
For the Bank	:	Mr.Ajit Pratap Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 13-09-2019 No one appears for the petitioners.

I.A. No. 2 of 2019 has been filed on behalf of one Ashok Prasad Shah requesting this Court to implead as party Respondent No. 4 in the writ application. He has submitted that pursuant to the e-auction sale notice Plot No. 2 property has been auction sold in his favour and he has deposited Rs.83.75



lacs for the same. A sale certificate dated 28.12.2018 has been issued in his favour.

Interlocutory Application is allowed and Intervenor is added as respondent no. 4 to the writ application.

It appears that initially the writ was preferred seeking a writ in the nature of certiorari to quash the e-auction sale notice issued by the authorized officer of the Bank for sale of the secured assets under the provision of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'Act of 2002'). During pendency of the writ application an interlocutory application was preferred on behalf of the petitioner challenging another e-auction sale notice dated 09.11.2018.

Following the judgment of the Hon'ble Supreme Court in the case of **United Bank of India Vs. Satyawati Tondon & Ors. reported in (2010) 8 SCC 110** this Court has been taking a consistent view that there being an adequate and alternative statutory remedy provided under Section 17 of the Act of 2002 against any of the measures taken by the Bank under Section 13(4) of the Act of 2002, the writ application cannot be entertained. Paragraph '43' of the judgment of the Hon'ble Apex Court 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 given facts and circumstances of the case, this Court finds no reason to entertain the writ application. Even otherwise it appears that the petitioners have lost their interest in the matter. The writ application is disposed off as not entertained.

However, it is left open to the petitioners, if so advised, to seek their remedy under the provisions of the Act of 2002 and in case remedy is applied for 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 off accordingly.

(Rajeev Ranjan Prasad, J)

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