

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.918 of 2019

In
Civil Writ Jurisdiction Case No.2924 of 2019

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M/s Roy Trading Company through its sole proprietor Mr. Manoj Kumar Roy
@ Manoj Kumar, aged about 43 years, Gender (M), Son of Late Satya
Narayan Roy, Resident of Mohalla- Bahadurpur, Ward No.25, PS-
Samastipur, District- Samastipur. Appellant/s

Versus

1. The Union Bank of India through the Senior Manager, Samastipur Branch,
Distt.- Samastipur.
2. The State of Bihar through the Principal Secretary, Department of Finance,
Govt. of Bihar, Patna.
3. The Registrar, Debt Recovery Tribunal, Patna. Respondent/s

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Appearance :

For the Appellant/s : Nivedita Nirvikar, Adv.
Mr. Amaresh Kumar Sinha, Adv.
For the Respondent/s : Mr. Ajay Kumar Rastogi (AAG 10)
Mr. Nishi Nath Ojha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

3 29-08-2019 **Re: I.A. No. 1 of 2019**

We have considered the explanation furnished by the
appellant with respect to delay of 129 days, the same is condoned.

I.A. No. 1 of 2019 is, accordingly, disposed of.

Re: L.P.A. No. 918 of 2019

Heard learned counsel for the appellant and learned
counsel for the respondents.

2. In the present case, the appellant is challenging the
order dated 27.03.2019 passed by the learned Single Judge in
C.W.J.C. No.2924 of 2019.



3. The appellant had taken a loan from the Central Bank of India and as he could not pay the amount in time, a proceeding under the Recovery of Debts and Bankruptcy Act, 1993 was initiated against him, whereafter a recovery proceeding of Rs.80,46,098.40/- together with *pendente lite* and future interest at the rate of 10% per annum, is pending before the Recovery Officer. While the matter is pending before the Recovery Officer, certain understanding materialised in between the appellant and Bank official. On the basis of that understanding, the appellant wrote a letter on 09.02.2018, stating therein that the Bank should release 10 dhur land as he has procured a good buyer, who is ready to purchase 10 dhur land in consideration amount of Rs.10,000,00/-(ten lacs), further mentioned, rest amount of Rs.25,000,00/-(twenty five lacs) would be paid by him within six months thereafter also requested for closure of SARFAESI action. Similar letter was written on 21.02.2018 mentioning identical request in turn the Bank vide letter dated 08.03.2018 released 10 dhur land. It has been submitted that on the promise given by the Bank official, the appellant has deposited Rs.10,000,00/- (ten lacs) under the impression of one time settlement. Earlier, the Bank official was ready to settle the entire account by payment of Rs.35,000,00/- (thirty five lacs) in totality, but after change of Bank official, the Bank has denied such settlement of payment, has taken stand that 10 dhur land was released for the purposes of sale by the appellant in order to liquidate the dues,



nothing apart. In the present case, the question is that in the original proceeding under the Recovery of Debts and Bankruptcy Act, 1993, the Tribunal has already passed the final order, a provision for appeal available to the petitioner has not been exhausted, inasmuch if the appellant is so sanguine, the matter of payment of dues has been settled, he may place card before the Recovery Officer who will examine every aspect of the matter and would take decision.

4. Having considered the rival contentions of the parties, this Court does not find any error in the order of learned Single Judge, the same is affirmed. However, the appellant so aggrieved may approach the Recovery Officer, who will deal all aspects of the matter and take decision in accordance with law. This Court is not giving any opinion on the merit of the case.

5. Let the petitioner obtain appropriate order within three weeks, during which, status-quo as on today will be maintained.

6. With the above observation and direction, this appeal is disposed of.

(Shivaji Pandey, J)

(Partha Sarthy, J)

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