IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14236 of 2018

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Mrs. Renu Verma W/o Late Sanjay Kumar, Gulab Bagh Market, Bakerganj, Patna- 800001 ... ... Petitioner

Versus

1. State Bank of India (a body corporate constituted under State Bank of India Act, 1955) through its Chairman cum Managing Director, having its Central Office at Madam Cama Road, Nariman Point, Mumbai, Maharashtra.
2. Authorized Officer/ Asst. General Manager, State Bank of India, Retail Assets Central Processing Central Processing Centre (RACPC), 1st Floor, Patna Main Branch Building, West Gandhi Maidan, Patna.

... ... Respondents

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Appearance :

For the Petitioner/s : Mr.Vijay Kumar Verma, Advocate
For the Bank : Mr.Kaushlendra Kumar Sinha, Advocate
Mr.Sunil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 28-08-2019 Heard learned counsel for the petitioner and learned counsel representing the Bank.

Petitioner in the present case is seeking to challenge the order dated 29.05.2018 passed in Sl. No. 48 of 2018 by which the learned Presiding Officer, Debts Recovery Tribunal, Patna has taken a view that the SARFAESI Application cannot be registered in the facts of the present case.

Learned counsel for the petitioner does not dispute the factual position emerging from Paragraph '9' of the impugned order. It was not a case in which any demand notice under Section 13(2) or a possession notice or an e-auction sale notice in terms of Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security

Interest Act, 2002 (hereinafter referred to as the 'Act of 2002) was issued. The contention of the Bank that the vehicle in question was repossessed and then sold in terms of hypothecation agreement has not been controverted. In these circumstances, if the Debts Recovery Tribunal has taken a view that no Securitisation Application in terms of Section 2 of the Act of 2002 may be registered, this Court finds no illegality or infirmity in the said order.

Learned counsel for the petitioner submits that in such circumstance the petitioner should be granted liberty to avail her remedy against the action of the Bank taken under the hypothecation agreement.

This Court sees no reason as to why such liberty will not be available to the petitioner. Since the action of the Bank taken under the hypothecation agreement was not entertained in the Securitisation Application, the petitioner will be at liberty to seek her remedy as may be advised to her in accordance with law.

The writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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