

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20013 of 2019

1. M/s Innotech Educational Society A/c Moti Babu Institute of Technology (MBIT), Regd. Office at -85, 1st Floor, Bharat Nagar, New Friends Colony, New Delhi- 110065. And admin Office at- Industrial Estate Off. NH 57, City- Forbeasganj, District- Araria, Bihar.
2. M/s Moti Babu Institute of Technology (MBIT), Mortgagor (Education Institute /College is running the Innotech Educational Society) At NH-7, Block Road, Forbesganj, District- Araria, Bihar, Represented through its Chairman.
3. Amit Kumar Das, Chairman and President /Guarantor/Mortgagor M/s Innotech Educational Society A/c Moti Babu Institute of Technology (MBIT), S/o Late Moti Lal Das, Resident of Vill and P.O.- Mirdaul, City- Narpatganj, District- Araria, Bihar.

... .. Petitioners

Versus

1. The State Bank of India, Stressed Assets Management Branch, 5th Floor, Zonal Office Building, J.C. Road, Patna.
2. Presiding Officer, Recovery Tribunal, Patna, Karpuri Thakur Sadan, Aashiana, Digha Road, Patna, Bihar.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.
For the Respondent/s	:	Mr. Prabhat Kumar, Advocate
		Mr. Hemant Kumar Sharan, Advocate
		Mr. S. H. Sharan, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 22-11-2019

Let the defect be ignored.

No one appears on behalf of the petitioners. Learned counsel for the Bank is present.

It appears that the present writ application has been preferred for issuance of a writ in the nature of a writ of Certiorari to quash the judgment and order dated 13.08.2018 passed by the Debts Recovery Tribunal, Patna (hereinafter referred to as the



‘Tribunal’) in O. A. Case No. 449 of 2017 by which the Tribunal has ordered that the Bank is entitled to recover from the writ petitioner an outstanding amount of Rs. 18,46,07,843.523/- as on 23.06.2017 together with pendentlite and future interest at the contractual rate from 24.06.2017 till realization of the entire amount.

The judgment and certificate of recovery issued by the Tribunal under Section ‘19’ of the Recovery of Debts and Bankruptcy Act, 1993 (hereinafter referred to as the ‘Act of 1993’) is appealable before the Appellate Tribunal under Section ‘20’ of the Act of 1993 within a period of 30 days from the date of the judgment. It seems that instead of availing the adequate, efficacious and alternative remedy of appeal within the prescribed period of limitation, the petitioners have chosen to file this writ application after one year from the date of the judgment and the certificate of recovery.

The Hon’ble Supreme Court has on many occasions taken a view that in the matter relating to recovery of Bank’s dues where an alternative statutory forum has been provided under the special statute, it would not be just and proper to entertain a writ application, unless the statutory remedies are exhausted. In this connection, reference may be made to the judgment of the Hon’ble



Supreme Court in the case of **United Bank of India Vs. Styawati Tandon & Ors.** reported in **(2010) 8 SCC 110**. Paragraph ‘43’ of the said judgment is extracted hereunder for a ready reference:

“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 aforesaid circumstance, this Court finds no reason to entertain the present writ application. The application is dismissed. The petitioners, if so advised may seek their remedy in accordance with law.

(Rajeev Ranjan Prasad, J)

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Uploading Date	22.11.2019
Transmission Date	

