

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15663 of 2017

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Sri Digambar Kumar Son of Devndra Kumar Malakar, resident of Jyoti Vihar Colony, Bahadurpur Sabour Road Near Madhu Gas Godown, P.O. Bahadurpur Sabour, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Finance Department, Govt. of Bihar, Patna.
2. The Branch Manager UCO Bank, Tilkamanjhi Branch, Central Jail Road, Tilkamanjhi, District- Bhagalpur
3. Recovery Officer, Debts Recovery Tribunal, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abhay Kumar Kashyap, Adv.
For the State : Mr.Raghwendra Kumar -SC-22
For the Bank : Mr. Ranjeet Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 26-08-2019 Heard learned counsel for the petitioner, learned counsel for the bank and the State.

Petitioner is challenging the judgement dated 05.11.2015 passed by the learned Presiding Officer, Debts Recovery Tribunal, Patna in O.A. Case No.121 of 2015. It is evident from the records that in exercise of its power under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the 'Act of 1993') the impugned judgement has been passed and a certificate of recovery has been issued. Now the said certificate of recovery has been transferred to the Recovery Officer and



one recovery proceeding being R.P. No.217 of 2015 has been registered.

The impugned judgement is an appealable judgement in terms of Section 20 of the Act of 1993 before the Debts Recovery Appellate Tribunal. The remedy available to the petitioner being adequate and efficacious, this Court would not exercise its writ jurisdiction to adjudge the judgement of the Tribunal. The judgement of the Hon'ble Supreme Court in the case of United Bank of India Vs. Satyawati Tondon & Ors. reported in (2010) 8 SCC 110 in its paragraph 34 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.”



This writ application is, thus, dismissed. It is, however, open for the petitioner to seek his remedy, if so advised, in accordance with law before the appropriate forum/tribunal. In case such remedy is applied for and a question of limitation arises for consideration the concerned forum/tribunal shall consider the same keeping in view the period spent by the petitioner before this Court in the present proceeding.

(Rajeev Ranjan Prasad, J)

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