IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19982 of 2019

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M/s Badiuzzaman Khan Memorial Education And Charitable Trust Registered Office at DPS Lane, Nahar Chowk, Dumra Road, District-Sitamarhi, Pin Code-843322 (Bihar) through its Chairman Md. Tarique Khan @ Mohammad Tarik Khan, Male, Aged About 52 Years, Son of Late Haji Badiuzzaman Khan Ure Bachha Babu.

... ... Petitioner

Versus

1. Allahabad Bank Head Office At 2, Netaji Subhas Road, Kolkata-700001 through Its Chairman Cum Managing Director.
2. Zonal Manager, Allahabad Bank, Zonal Officer, Pani Tanki Chauk, in Front of Zila School, District-Muzaffarpur (Bihar).
3. Chief Manager, Allahabad Bank, Sitamarhi, Branch, Shankar Chauk, Mian Road, P.O.-Sitamarhi, District-Sitamarhi (Bihar).
4. Authorized Officer, Allahabad Bank, Sitamarhi, Branch, Shankar Chauk, Main Road, P.O.-Sitamarhi, District-Sitamarhi (Biahr).

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Raju Giri, Advocate
For the Respondent/s	:	Mr.Dayanand Singh, Advocate
		Mr. Nagdeo Choubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 01-10-2019 Heard learned counsel for the petitioner and learned counsel representing the Allahabad Bank.

The petitioner in the present case is seeking quashing of the sale notice dated 06.09.2019 issued by the Authorized officer of the Allahabad Bank, Sitamarhi under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (hereinafter referred to as the 'Act of 2002').

Learned counsel for the petitioner submits that the petitioner is ready to pay the amount under the demand notice within the prescribed period if his request is considered by the Authorized Officer of the Bank. It is his submission that till consideration of his proposal, the sale notice should not be given effect to.

On the other hand, learned counsel for the Bank submits that the petitioner has got an adequate and equally efficacious remedy of filing a Securitization Application under Section 17 of the Act of 2002 which has been held to be a complete code unto itself. Learned counsel submits that in case, however, the petitioner is willing to pay the amount in the demand notice, the same may be considered by the Authorized Officer of the Bank in accordance with recovery policy of the Bank.

In the given facts and circumstance of the case where this Court finds that the petitioner has got an adequate and equally efficacious remedy to approach the Debts Recovery Tribunal in a duly constituted application under Section 17 of the Act of 2002 and the Hon'ble Supreme Court in the case of **United Bank of India Vs. Satyawati Tondon** reported in **(2010) 8 SCC 110** has taken a view that the High Court should not entertain a writ application in the matter of recovery of

Bank's dues unless the borrower has exhausted the alternate remedy, this Court declines to entertain the writ application challenging the sale notice.

It is, however, left open for the petitioner to approach the Debts Recovery Tribunal with an appropriate application for redressal of his grievance.

In case any such application is preferred within the limitation period provided under the Act of 2002, the same will be considered by the Debts Recovery Tribunal with the prayer of the petitioner for interim relief.

It will also be open for the petitioner to approach the Authorized Officer of the Bank with a proposal to pay the amount under the demand notice and in case such a proposal is submitted, the Authorized Officer shall place it before the competent authority of the Bank for consideration in terms of the recovery policy of the Bank.

The writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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