

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1074 of 2017

In

Civil Writ Jurisdiction Case No.8074 of 2017

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M/s Krish Ispat Company Limited, a Company incorporated under the Indian Companies Act, 1956 having its registered office at 106, Ashiana Tower, Exhibition Road, Patna-1, through its Director Shri Sanjiv Kumar, S/o Late K.K. Bhagat, resident of 102B, Saket Plaza, Jamal Road, Patna-1.

... .. Appellant/s

Versus

1. The Indian Overseas Bank, through its General Manager (S. M. E.), 763, Anna Salai, Chennai-600 002 (Tamil Nadu).
2. The Zonal Manager, Indian Overseas Bank, Zonal Office, 119, White House, Park Street, Kolkata-700 016.
3. The Senior Regional Manager, Indian Overseas Bank, Saboo Complex, Near Republic Hotel, Exhibition Road, Patna.
4. The Senior Manager/Branch Manager, Indian Overseas Bank, Saboo Complex, Near Republic Hotel, Exhibition Road, Patna.
5. The Universal Sampo, General Insurance Company Limited, having its registered Office at 201-208, Kristal Plaza, Opposite Infiniti Mall, Link Road, Andheri (West) Mumbai-400058, through its Branch Manager, having a Joint Venture with Indian Overseas Bank.
6. The Branch Manager, Universal Sompo, General Insurance Company Limited, having its Branch at 2nd Floor, Magadh Plaza, Balmichak, above Indian Overseas Bank, Anishabad, Patna-2.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Kishore Prasad, Adv.
For the Respondent-Bank : Mr. Sanjay Singh Thakur, Adv.
For the Respondent -I.C. : Mr. Durgesh Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 11-03-2019

Heard the Parties

This intra-court appeal arises from a judgment and order

dated 12.07.2017 passed by a learned Single Judge of this Court



in CWJC No.8074 of 2017 whereby the learned Single Judge has found no reasons to interfere with the proceedings initiated under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act') by issuance of a notice under Section 13(2) thereof.

The plea taken by the petitioner before the learned Single Judge which is also the ground for carrying the challenge until this Court, as advanced by Mr. Raj Kishore Prasad, learned counsel for the appellant-writ petitioner, is that because the insurance amount to be paid by the Insurance Company has eluded the petitioner that a default in payment of loan led to the proceedings initiated under the 'SARFAESI Act'.

We have heard the parties but completely fail to appreciate the grounds advanced by Mr. Prasad to avoid the proceeding initiated under the 'SARFAESI Act' which has to be tested on its own merit. Whether or not the non-payment of the insurance claim has any bearing on the default, is an issue to be addressed before the statutory authority itself and not before this Court. In our opinion since a notice under section 13(2) of the 'SARFAESI Act' obliges the noticee to file his response under section 13(3A), the petitioner should have discharged his obligation rather than to rush before this Court.



We thus find no reasons to interfere with the opinion of the learned Single Judge but would allow the appellant-writ petitioner to file his reply to the notice within 15 days hence i.e. by 26th of March, 2019. Should the appellant-writ petitioner file his reply to the notice issued under section 13(2) of the 'SARFAESI Act', by 26.03.2019, the statutory authority shall proceed to dispose of the same in accordance with law as mandated under the 'SARFAESI Act' and any action that may have been taken by the authorities in the meanwhile under section 13(4) of the 'SARFAESI Act' shall remain in abeyance and abide the order to be passed on the response filed by the petitioner.

The appeal stands disposed of with the direction above.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Anjula/skpathak

AFR/NAFR	NAFR
CAV DATE	NA
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