

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.936 of 2018

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M/s Maa Vaishno Enterprises, through its proprietor Abhishek Abhiranjan, son of Late Bibhuti Bhushan Singh, resident of village – Baghi, Police Station, Begusarai (Town), District – Begusarai.

... .. Petitioner/s

Versus

1. The State Bank of India SARB at 2nd Floor, Patna Main Branch Building, West Gandhi Maidan, Patna – 1.
2. The Chief Manager, State Bank of India, Begusarai Branch, Begusarai.
3. The Regional Manager, State Bank of India, Regional Business Office, Har Har Mahadeo Chouk, Begusarai.
4. The Presiding Officer, Debts Recovery Tribunal, for the State of Bihar, Karpuri Thakur Sadan, Ashiyana Digha Road, Patna – 25.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar, Advocate
For the Respondent/s	:	Mr.Kaushlendra Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 26-08-2019 Heard learned counsel for the petitioner and

learned counsel for the Bank.

Although learned counsel for the petitioner placed the order dated 22.12.2015 passed in CWJC No. 19249/2015 as contained in Annexure ‘4’ to the writ application to contend that the order being in existence, the Bank could not have filed original application being O.A. Case No. 645/2016, soon learned counsel realized that the action under SARFAESI Act, 2002 and an action under the provisions of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as



the ‘Act of 1993’) are two different actions. It is well settled that both the action can go together.

In the present case under challenge is the judgment dated 07.10.2017 passed in O.A. Case No. 645/2016. The judgment is appealable under Section 20 of the Act of 1993. There being an adequate and equal efficacious remedy of appeal available to the petitioner. This court finds no reason to entertain the present writ application particularly in view of the observations of the Hon’ble Supreme Court in the case of **United Bank of India Vs. Satyawati Tondon** reported in **(2010) 8 SCC 110**, paragraph 43 of the judgment 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, 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.”

Learned counsel for the Bank is present.

The writ application is disposed of with liberty to the petitioners to seek it's remedy in statutory appeal before an appropriate forum/Tribunal. In case such an appeal is preferred and a question of limitation arises for consideration the same will be considered keeping in view the period spent by the petitioner before this court.

(Rajeev Ranjan Prasad, J)

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