IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14219 of 2019

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Uma Shankar Prasad S/o Late Dwarka Prasad R/o Vill Snehi Tola, PS Naubatpur, Dist Patna.

... ... Petitioner

Versus

1. The Regional Manager Madhya Bihar Gramin Bank Patna-20.
2. The Area Manager, Madhya Bihar Gramin Bank, Patna.
3. The Branch Manager, Madhya Bihar Gramin Bank, Naubatpur, Patna.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Singh
For the Respondent/s	:	Mr.Suresh Pd Singh No.1
	:	Mr.Madan Mohan

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 20-09-2021 This matter has been taken up for hearing online because of COVID-19 pandemic restrictions.

The petitioner is seeking quashing of the possession notice dated 28.06.2019 issued by the Madhya Bihar Gramin Bank, Patna under Section 13(4) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short ‘the Act’), in the present proceeding under Article 226 of the Constitution of India. Subsequent publication of notice in the news paper dated 02.07.2019 in this regard is also under challenge.

A preliminary objection has been raised on behalf of the Bank that the petitioner has alternative statutory remedy under Section 17 of the Act, which the petitioner has not invoked.

In my opinion, in view of a law laid down by the Supreme Court in case of ***United Bank of India v. Satyawati Tondon and Ors.*** reported in **(2010) 8 SCC 110,** the preliminary objection raised on behalf of the Bank deserves to be sustained. The Supreme Court in the said decision has clearly laid down that ordinarily a writ petition under Article 226 of the Constitution of India should not be entertained if the person has alternative statutory remedy. Paragraph 43 of the said 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, 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."

I do not find any exceptional circumstance available in this case warranting this court's interference at this stage exercising power of judicial review, as the petitioner has not exhausted alternative statutory remedy.

Considering the above, this application is dismissed as not maintainable.

The petitioner shall have liberty to approach Debt Recovery Tribunal, if so advised.

(Chakradhari Sharan Singh, J)

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