

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.290 of 2020

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M/s Samrat Vijay Construction Pvt. Ltd. a company registered under the Companies Act having its registered office at Churi Market, Kadamkuan, Patna- 800003 through its Director Arjun Singh, age about 42 years, Male, S/o Sri Sakal Deo Singh, R/o Flat No. 5A, 5th Floor, Shakti Dham Apartment, Sri Krishna Nagar, Kidwaipuri, Patna- 800001.

... .. Petitioner/s

Versus

1. State Bank of India through its Chief Manager, Stressed Assets Management (SAMB), at 5th Floor, State Bank of India, Zonal Office Building, Judges Court Road, Patna- 800001.
2. Presiding Officer, Debts Recovery Tribunal, Wings A and B, 2nd Floor, Karpuri Thakur Sadar, GPOA, Near Rajeev Nagar, P.S. Ashiana Digha Road, Patna- 800025.

... .. Respondent/s

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Appearance :

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

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-08-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

1. That the writ petition is being filed for issuance of writ in the nature of certiorari for quashing the order dt. 25.10.2019 passed by Ld. Presiding Officer, Debt Recovery Tribunal, Patna U/s 19 of Recovery of Debts and Bankruptcy Act, 1993 (hereinafter referred to DRT Act) which was passed in excess of jurisdiction as the adjudication of amount due starts only after conclusion of proceeding u/s 13(4) of the Securitization and Reconstruction of Financial Assets and

Enforcement of Security Interest Act,2002 (hereinafter referred to SARFAESI Act,2002) and Ld. Presiding Officer failed to appreciate that Section 13(2) which provides for Enforcement of Secured Assets without intervention of Tribunal also provides, Section 13(11) for enforcement of guarantee and section 13(10) for recovery of balance amount and have overriding effect over Section 19 of DRT Act.

That the petitioner further prays for declaration of law from this Hon'ble Court that the "Authorized Officer" is an authority within the meaning of the SARFAESI Act,2002 and statutory rules and statutory Form-I under Rule-4 of Debts Recovery Tribunal (Procedure) Rules,1993 provides that at the time of filing of OA application u/s 19 of DRT Act, a declaration is required to be given that no proceeding relating to subject matter is pending before any court or authority.

That petitioner further seeks declaration that the order dt. 25.10.2019 was passed in violation of principles of natural justice and Ld. Presiding Officer failed to pass reasoned order and in the absence of reason by the Tribunal, reason given by Appellate Tribunal is not sufficient compliance of natural justice.

The petitioner further prays for issuance of any other appropriate writ/writs, order/orders and or direction for which petitioner may be found entitled.

After the matter was heard for some time, finding the Court not to be in favour with the submissions made across the Bar, learned counsel for the petitioner, more so in view of the disputed question of fact, fairly states that petitioner be

permitted to take recourse to such equally, efficacious alternative remedies as are available in accordance with law.

Permission granted.

We clarify that we have not adjudicated the dispute on merits. All questions of fact and law are left open to be agitated and adjudicated before the appropriate forum in appropriate proceedings.

Needless to add, period for which the petitioner has been pursuing the matter before this Court, shall be excluded for the purpose of condonation.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	
CAV DATE	
Uploading Date	31.08.2022
Transmission Date	