

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6061 of 2023

M/s Maihar Enterprises a proprietary concern having its unit/shop at Holding no. 27 and 28, Murarpur Road, Purani Godown, Near PNB Gaya through its proprietor Vikash Kumar, aged about 43 years (male), son of Laxmi Narayan Gupta, resident of Rama Bhawan, Ramna Road, P.S. Civil Lines Gaya 823001 District Gaya.

... .. Petitioner/s

Versus

1. H.D.F.C. Bank Limited a company incorporated under the companies Act 1456, carrying on banking business under License granted by Reserve Bank of India and registered under Banking mutation Act 1949 having its registered official HDFC Bank House, Senapati Bapat Marg, Lower Parel (West) Mumbai 400 013.
2. The Branch Manager H.D.F.C. Bank Ltd. at one of its branch office amongst other places at H.D.F.C. Bank Ltd., Bimle Sadan, Holding No. 801/432 Ward No. 37, Exhibition Road Patna 800 001.
3. Sri Debojit Mukherjee son of Late Ms Jayanta Mukherjee, being the Manager of H.D.F.C. Bank Limited, Department for special operations having its office at Jardine House 1st Floor 4, Clive Row, Kolkata 700001.
4. Ld. Presiding Officer, Debt recovery Tribunal Patna having its seat at 2nd Floor, (A and F wing) Karpuri Sadan, Kendriya Karamchari Parisar (G.P.O.A) Ashiyana Digha Road, Patna 800025.

... .. Respondent/s

Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr.Additional Solicitor General

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL ORDER

2 28-04-2023 None appears for the petitioner.

In the instant petition, petitioner has prayed for the
following relief(s):-

“(a) For the issuance of a writ/order/direction in the nature of the writ of certiorari or any other appropriate writ/order/direction for the quashing of the order dated 08.09.2022 (Annexure-3) passed by the Ld. Presiding Officer Debt



Recovery Tribunal Patna in Original Application Case No. 463 of 2021 whereby and where under the Ld. Presiding Officer during the hearing of Original Application case No. 463 of 2021 for the matters raised in petition dated 13.07.2022 (Annexure-2) filed by the petitioners passed an order dated 08.09.2022 in Original Application Case no. 463 of 2021 (Annexure-1) whereby and where under the Ld. Presiding officer, Debt Recovery tribunal allowed the actions of the registry of the Debt Recover Tribunal, Patna, which has treated the aforesaid petition dated 13.07.2022 (Annexure 2) as Written Statement and subsequently passed in order directing the petitioner that the petition dated 13.07.2022 will not serve the purpose of Written Statement and in such a circumstances, the defendants (petitioner) are directed to show cause as to why opportunity to file Written statement should not be closed.

(b) For the issuance of a writ/order/direction in the nature of writ of certiorari as any other appropriate writ/order/direction for the quashing of order dated 30.11.2022 (Annexure-4) passed by the Ld. Presiding Officer, Debt Recovery Tribunal Patna in Original Application case No. 463 of 2021 whereby and where under the Ld. Presiding officer Debt Recovery Tribunal in its order Dt. 30.11.2022 closed the opportunity to file Written Statement as the statutory period for filling of Written Statement has expired and evidence on affidavit, if any may be filed meanwhile, without



commenting on the merits for either accepting or rejecting any of the legal points in question raised by the petitioner in the petition Dt. 13.07.2022 (Annexure-2) filed by the petitioner in Original Application case No. 463 of 2021 at Debt Recovery Tribunal Patna.

(c) For the issuance of a writ/order/direction in the nature of the writ of certiorari or any other appropriate writ/order/direction to direct at the Ld. Presiding Officer, Debt Recovery Tribunal, Patna to hear afresh the petition dated 13.07.2022 (Annexure-2) filed by the petitioner and pass an appropriate order the be based on merits of the petition while a accepting or rejecting the prayers made in the petition Dt. 13.07.2022.

(d) For the issuance of a writ/order/direction in the nature of the writ of certiorari or any either appropriate writ/order/direction to direct the Ld. Presiding Officer, Debt Recovery Tribunal Patna to allow the filing of the Written Statement of the petitioner in Original Application Case No. 463 of 2021 after the passing of the order with respect to the petition Dt. 13.07.2022 filed by the petitioner in original Application Case No. 463 of 2021 the before the Ld. Presiding Officer Debt Recovery Tribunal, Patna.

(e) Any other relief or reliefs for which the petitioner is entitled to be granted in favour of the petitioner.”

The petitioner has statutory remedy of appeal before the DRAT. In the absence of filing such appeal before the



DRAT, the petitioner has rushed to this Court. Accordingly, the present writ petition is pre-mature. Hence, writ petition stands disposed of.

Reserving liberty to the petitioner to invoke remedy before the DRAT, if such application is filed, DRAT is hereby directed to decided the petitioner’s appeal within a reasonable period of time and in accordance with law.

(P. B. Bajanthri, J)

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