IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4921 of 2023

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Bikash Kumar Singh Son of Abhay Prasad Singh Resident of Village and P.O.- Amhara, P.S.- Bihta, District- Patna.

... ... Petitioner/s

Versus

1. The Managing Director, Indian Bank 254-260, Avvi Shanmugham Salai, Royapettah, Chennai- 600014.
2. The Chief Manager, Allahabad Bank now Indian Bank, Near Kotwali Police Station, P.S.- Patna Kotwali, District- Patna.
3. The Senior Manager, Allahabad Bank now Indian Bank, Near Kotwali Police Station, P.S.- Patna Kotwali, District- Patna.
4. The Branch Manager, Allahabad Bank now Indian Bank, Near Kotwali Police Station, P.S.- Patna Kotwali, District- Patna.
5. Raushan Kumar, Son of Arun Kumar Resident of H/o Suresh Sharma, Krishna Nagar, Rajabazar, P.S.- Jehanabad, District- Jehanabad, at present Ram Prem Enclave, West Anandpuri, Near Jal Prishad, Rajapur Pul, P.S.- Srikrishanapuri, District- Patna, Pin Code- 800001.
6. The Archana Kumari, Wife of Srikant Sharan Resident of Flat No. 302, Hope Royal Residency, Vijay Nagar, Rukunpura, P.S.- Rupaspur, District- Patna, Pin Code- 800014.
7. Shrikant Sharan, Son of Ramakant Sharan Resident of Flat No. 302, Hope Royal Residency, Vijay Nagar, Rukunpura, P.S.- Rupaspur, District- Patna, Pin Code- 800014.
8. The State of Bihar, through District Magistrate, Patna, District- Patna.
9. The District Magistrate, Patna, District- Patna.
10. The Sub Divisional Magistrate, Danapur, District- Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigendra Kumar, Adv., Mr. Rajeev Ranjan Singh, Adv.
For the Respondent/s	:	Mr. Ajit Kumar Sinha, Adv., Miss. Dilkash Khan, Adv., Miss. Minu Kumari, Adv.
For the State	:	Mr. Anil Kumar Sinha, GP-26

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 25-04-2023 1. Heard learned counsel for the parties.

2. Learned counsel for the petitioner is ready to pay

the loan amount by way of installments.

3. It is further submitted that the petitioner has already moved an application that Bank authorities are not appearing.

4. It is made clear that D.R.T. shall be free to pass orders in absence of Bank.

5. I have considered the submissions. The Apex Court, in the case of **Varimadugu Obi Reddy v. B. Sreenivasulu,** reported in **(2023) 2 SCC 168,**. observed as under:-

> *"36. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of pre- deposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated*

> *under 2 proviso to Section 18 of the 2002 Act."*

6. In the case of **South Indian Bank Ltd., & Ors., Vs. Naveen Mathew Philip & Anr.,** reported in **2023 SCC Online SC 435,** the Apex Court has frowned upon the High Courts interfering in matters of commercial nature relating to a loner and loanee except in extra ordinary circumstances. Para 18 of the said judgment reads as under:

> "*18. While doing so, we are conscious of the fact that the powers conferred under Article 226 of the Constitution of India are rather wide but are required to be exercised only in extraordinary circumstances in matters pertaining to proceedings and adjudicatory scheme qua a statute, more so in commercial matters involving a lender and a borrower, when the legislature has provided for a specific mechanism for appropriate redressal."*

7. Keeping in view of the above, I am not inclined to interfere in this case at this stage. However, if the petitioner approaches the DRT, the application shall be considered with an approach to get the matter sorted out as observed by the Supreme Court where it has stated that the DRT should dispose

of the matters relating to loan by an approach as adopted in mediation proceedings.

8. Granting such liberty to the petitioner, the present writ petition is held to be not maintainable.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 6

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