

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7160 of 2023

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Rajesh Malakar Son of Late Jadu Malakar, Resident of Nichli Bazar Rajgir,
P.S.-Rajgir, District-Nalanda.

... .. Petitioner

Versus

1. The Chairman, Dakshin Bihar Gramin Bank Shri Vishnu Commercial Complex, NH-30, New Bypass, Ashochak, Patna, Bihar-800016.
2. The Regional Manager Dakshin Bihar Gramin Bank, Head Office South of Meusium, Patna-1.
3. The Authorised Officer Dakshin Bihar Gramin Bank Regional Office Bihar Sharif, Nalanda.
4. The Branch Manager, Dakshin Bihar Gramin Bank Panditpur Branch, Rajgir, Nalanda.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Sanjay Prasad, Advocate
For the Bank : Mr.Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 05-06-2023 Heard learned counsel for the petitioner and learned

counsel for the Dakshin Bihar Gramin Bank (hereinafter

referred to as the “Bank”).

Learned counsel for the petitioner undertakes to

remove the defects within one week after the Summer Vacation

is over.

In this writ application, the petitioner is praying for a

writ in the nature of Writ of Mandamus directing the

respondents to consider the grievances of the petitioner

sympathetically to reduce the interest amount and settle the

amount under O.T.S. Policy.

From the narration of facts present in the writ



application, it appears that the petitioner had availed a financial assistance under cash credit account. He committed default in re-payment whereafter the Bank had proceeded to take action against him under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 (hereinafter referred to as the “Act of 2002”) and rules framed thereunder. Admittedly, action under Section 13(4) of the Act of 2002 has been taken against the petitioner.

Learned counsel for the Bank has rightly submitted that the petitioner has an alternative and equally efficacious remedy against action taken under Section 13(4) of the Act of 2002 by filing an appropriate application before the Debts Recovery Tribunal, Patna.

In view of the alternative statutory remedy available to the petitioner, this Court is of the considered opinion that the writ application need not be entertained particularly keeping in view the judgments of the Hon’ble Supreme Court in the case of **Union Bank of India Vs. Satyawati Tondon** reported in (2010) 8 SCC 110 and the recent judgment in the case of **M/s South Indian Bank Ltd. & Ors. Vs. Naveen Mathew Philip & Anr. Etc. Etc. [2023 Live Law (SC) 320]**. The petitioner, if so



advised, may avail his remedy before the Debts Recovery Tribunal, Patna.

This application is disposed of accordingly.

The certified copy of this order shall be made available only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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