

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8187 of 2023

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Jitendra Kumar Gupta Son of Late Dayanand Gupta Resident of Village and Police Station Mansurchak, District- Begusarai.

... .. Petitioner

Versus

1. The Dakshin Bihar Gramin Bank through the Chairman, East Lakshmi Nagar, Ramkrishna Nagar, Patna.
2. The Chairman, Dakshin Bihar Gramin Bank, East Lakshmi Nagar, Ramkrishna Nagar, Patna.
3. The Regional Manager, Dakshin Bihar Gramin Bank, at Sona Jageshwar, Complex, Traffic Chowk, Begusarai.
4. The Branch Manager, Dakshin Bihar Gramin Bank at Chhabilapur, Police Station Mansurchak, District- Begusarai.

.. ... Respondents

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Appearance :

For the Petitioner/s	:	Mr.Santosh Kumar Singh, Advocate
		Mr.Dinesh Maharaj, Advocate
For the Respondent/s	:	Mr.Madan Mohan, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 06-06-2023 Heard learned counsel for the petitioner and learned counsel for the Dakshin Bihar Gramin Bank (hereinafter referred to as the 'Bank').

Petitioner in the present case has prayed for quashing of the sale notice dated 27.04.2023 issued under Rule 8(6) and 9(1) of the Security Interest (Enforcement) Rule, 2002 whereby and whereunder the Bank has proceeded to sell the property of the petitioner which are lying as secured asset in the hands of the Bank.

Learned counsel for the petitioner agrees that the petitioner has an alternative statutory remedy before the Debts



Recovery Tribunal at Patna (hereinafter referred to as the 'Tribunal'). No plausible reason has been provided as to why instead of availing the statutory remedy, the petitioner has chosen to move this Court in its writ jurisdiction. The only answer is that earlier the petitioner had moved this Court in CWJC No. 2790 of 2022 which was disposed of by the Hon'ble Division Bench of this Court vide order dated 28.02.2022 with certain observations and directions.

Learned counsel for the Bank submits that in view of the judgment 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]**, a writ application challenging the sale notice issued under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 and the rules framed thereunder need not be entertained.

Having regard to the submissions noted hereinabove, this Court is of the considered opinion that the writ application as framed cannot be entertained. The petitioner has got an alternative statutory remedy which he may apply for and seek



appropriate relief before appropriate forum.

Since the petitioner has challenged the sale notice in this writ application, liberty is granted to the petitioner to file an appropriate application before the Tribunal within two weeks from today and pray for appropriate relief before the Tribunal. In case any question of limitation arises, the same will be considered by the Tribunal keeping in view that the petitioner had challenged the sale notice before this Court on legal advice and under some bonafide beliefs. The petitioner may pray for all such relief(s) for which he may be entitled for. All contentions are left open.

This application stands disposed of.

(Rajeev Ranjan Prasad, J)

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