

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1556 of 2023

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M/s Dev Shiva Agro Pvt. Ltd. Represented through Smt. Ram Dulari Devi
aged about-61 Years, Gender-Female, Wife of Vijay Kumar Singh, Managing
Director, Resident of Village-Chandra Hatti, Police Station-Kurhani, District-
Muzaffarpur.

... .. Petitioner/s

Versus

1. The Canara Bank A Body Cooperate and Constituted Under the Banking Companies Act through its Chairman having its Head Office at 112, J.C. Road, Bengaluru.
2. The General Manager Circle Office, Canara Bank, Patna Luvkush Tower, Exhibition Road, Patna.
3. The Dy. General Manager Circle Office, Canara Bank, Patna Luvkush Tower, Exhibition Road, Patna.
4. The Branch Manager Canara Bank, Motijheel, Muzaffarpur.
5. The Authorised Officer, Canara Bank, carrying out its Statutory Function from Muzaffarpur Main Branch, Motijheel, Muzaffarpur-8420001.
6. Gopal Kumar Singh, S/o Sri Ram Ratan Singh Resident of Village-Madhurapur Bichla Tola, Ward No.- 25, Post- Teghra, Police Station-Teghra, District Begusarai.
7. Union of India through Registrar, DART, Allahabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjeet Kumar, Adv.
For Respondent	:	Mr. Amarendra Nath Verma, Sr. Panel to Counsel
For the Respondent/s	:	Mr. Rajan Ghoshrave, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 23-09-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the following
reliefs:-

*“That petitioner seeks indulgence
of this Hon’ble Court for issuance of a writ for
quashing of the order dated 11.11.2022, passed
by Debts Recovery Appellate Tribunal,
Allahabad, passed in regular Appeal No.
11/2022 (Canara Bank Versus M/s Dev Shiva
Agro Pvt. Ltd.) by which the order dated
01.09.2021, passed by the learned Court of*



Debts Recovery Tribunal, Patna in Review Application No.- 06/2019 (M/s Dev Shiva Agro Pvt. Ltd. Versus Canara Bank) has been set aside, without considering the facts and question of law.

The petitioner also prays to restore the order dated 01.09.2021, passed by the learned Court of Debts Recovery Tribunal, Patna in Review Application No.- 06/2019 (M/s Dev Shiva Agro Pvt. Ltd. Versus Canara Bank)”

3. The only issue in the present case is as to whether the Debt Recovery Tribunal, Patna (DRT) has the power to review its own order or not.

4. The brief facts necessary for adjudicating the present writ petition are, that the petitioner approached the DRT, Patna by way of S.A. No. 208 of 2018 under Section 17 of the SARFAESI Act, 2002 aggrieved by the action of the respondents in issuing the notice under Section 13(2) of the said Act without considering his objections filed under Section 13(3A) of the said Act. The DRT, Patna vide order dated 20.03.2019 has dismissed the said S.A. filed by the petitioner herein. Thereafter, the petitioner filed a review application within the period of limitation and the DRT, Patna having found that the order dated 20.03.2019 dismissing the S.A. No. 208 of 2018 was not properly considered and that some of the documents filed by the petitioner were not taken into consideration has allowed the review application vide order dated 01.09.2021. Aggrieved by the order passed by the DRT, Patna in



the Review Application No. 06 of 2019, the respondent-Bank has preferred a statutory appeal under Section 18 of the SARFAESI Act, 2002 before the DRAT, Allahabad. The DRAT, Allahabad vide order dated 11.11.2022 has allowed the appeal filed by the respondent-Bank holding that the DRT, Patna did not have the power to review its own order. Aggrieved by the order dated 11.11.2022 passed by the DRAT, Allahabad, in Appeal No. 11 of 2022 the present writ petition is filed.

5. Though the learned counsel for the petitioner, the Bank and the private respondent No. 6 have argued at length on the subsequent events and also on the merits of the case, this Court is not inclined to go into the said aspects and is confining itself to the question as to whether the DRT has the power to review its own order or not. The issue involved is no longer res integra as the same is covered by the Division Bench judgment of this Hon'ble Court passed in LPA No. 1029 of 2018 dated 27.09.2018. The Division Bench of this Hon'ble Court under similar circumstances while interpreting the provisions of the SARFAESI Act, 2002, has held as under;

“10. The short question, which is paused for consideration by this Court, is whether the DRT would have jurisdiction to entertain the review application to review its own order passed under the SARFAESI Act, 2002 or not?”



12.1. While considering the aforesaid question, namely, whether the DRT would have jurisdiction to review its own order passed under SARFAESI Act, 2002, relevant provisions of the SARFAESI Act, 2002 as well as the RDB Act, 1993 and even the Debts Recovery Tribunal (Procedure) Rules, 1993 are required to be referred to.

12.2. Sub-section 7 of Section 17 of the SARFAESI Act, 2002, Section 22(2)(e) of the RDB Act, 1993 and Rule 5A of the Debts Recovery Tribunal (Procedure) Rules, 1993, which are relevant for the purpose of determination and adjudication of the issue, involved in the present Letters Patent Appeal, read as under:

“17(7) Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far as may be, dispose of the application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and the rules made thereunder.]”

“22. Procedure and Powers of the Tribunal and the Appellate Tribunal-

(2) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908(5 of 1908), while trying a suit, in respect of the following matters, namely:-

- (a)**
- (b)**
- (c)**
- (d).....**
- (e); reviewing its decisions**

Rule 5-A. Review- (1) Any party considering itself aggrieved by an order made by the Tribunal on



account of some mistake or error apparent on the face of the record desires to obtain a review of the order made against him, may apply for a review of the order to the Tribunal which had made the order.”

(2) No application for review shall be made after the expiry of a period of [thirty days] from the date of the order and no such application shall be entertained unless it is accompanied by an affidavit verifying the application.

(3) Where it appears to the Tribunal that there is no sufficient ground for a review, it shall reject the application [but where the Tribunal is of opinion that the application] for review shall be granted, it shall grant the same:

Provided that no such application shall be granted without previous notice to the opposite party to enable him to appear and to be heard in support of the order, a review of which is applied for.]”

12.3. Thus, as per sub-section 7 of Section 17 of the SARFAESI Act, 2002, the provisions of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the rules made thereunder shall be applicable with respect to the application under the SARFAESI Act and it provides that the Debts Recovery Tribunal may also dispose of the application (under SARFAESI Act, 2002) in accordance with provisions of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Rules made thereunder. It is not in dispute that Section 22(2)(e) of the RDB Act, 1993 confers power upon the Tribunal to review its own order/decision. Even there is specific provision in the Debts Recovery Tribunal (Procedure) Rules, 1993 viz. Rule 5-A of 1993 Rules which specifically confer powers upon the Tribunal to review its own order. Thus, the



legislation by incorporation or by reference has adopted the provisions of the RDB Act, 1993 and the rules made thereunder into SARFAESI Act, 2002 by virtue of Section 17(7) of the SARFAESI Act, 2002.

15. In view of the above and for the reasons, stated above, we are of the opinion that the learned Single Judge has not committed any error in holding that the DRT would have jurisdiction to review its own order passed under the SARFAESI Act, 2002. We are in complete agreement with the view taken by the learned Single Judge, therefore, no interference by this Court is called for in exercise of the intra Court appellate jurisdiction.”

6. Having regard to the above mentioned facts and circumstances and also the law laid down by this Hon’ble Court in LPA No. 1029 of 2018 dated 27.09.2018, the present writ petition is allowed. The impugned order dated 11.11.2022 passed by the DRAT, Allahabad is set aside. The matter is remanded back to the DRT, Patna for considering the application made by the petitioner afresh on its own merits strictly in accordance with law.

7. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.09.2024.
Transmission Date	NA

