

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.102 of 2024

In
Civil Writ Jurisdiction Case No.11299 of 2023

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Sonu Kumar son of Parshuram Singh, resident of Village-Malahi Babu Tola,
P.O. and P.S.-Malahi Bazar, District-East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar through its Principal Secretary, Government of Bihar,
Department of Finance, Bihar, Patna.
2. The Branch Manager, UCO Bank, Bettiah, West Champaran (Bihar).
3. The Authorized Officer/Chief Manager, UCO Bank, Zonal Office,
Mauryalok Complex, 4th Floor, Block-A, New Dak Bunglow Road, Patna-
800001.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Umesh Tiwari, Advocate
For the Respondent/s : Additional Advocate General-13

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

7 02-12-2024 Heard learned counsel for the appellant and learned
counsel for the respondents.

2. The instant appeal has been preferred by the
petitioner-appellant against the order dated 19.12.2023 whereby
the learned Single Judge was pleased to dismiss CWJC
no.11299 of 2023 on the ground of availability of alternate and
efficacious remedy to the appellant of filing a statutory appeal
under section 18 of the SARFAESI Act.

3. It is submitted by learned counsel for the
appellant that the writ application was preferred praying to



quash the order dated 18.4.2023 passed in O.A no. 971 of 2018 by the Presiding Officer, Debt Recovery Tribunal, Patna and for other reliefs.

4. It is submitted that even though the order may be appealable under SARFAESI Act, however, there is no express bar in the High Court exercising its jurisdiction under Article 226 of the Constitution of India because of availability of the alternate remedy of statutory appeal. In similar circumstances, in other cases the High Court in exercise of its jurisdiction has interfered in the case.

5. In response, it is submitted by learned counsel for the respondents that exercise of jurisdiction under Article 226 of the Constitution of India by the High Court is a discretionary remedy and the learned Single Judge having chosen not to exercise the discretion, there is no illegality in the order impugned and thus the appeal be dismissed.

6. Having heard learned counsel for the parties and having perused the material on record, this Court finds that on an application filed by the UCO Bank under section 19 of the Recovery of Debts and Bankruptcy Act, 1993, a case being O.A. no. 971 of 2018 was registered in the Debts Recovery Tribunal, Patna. By order dated 18.4.2023, the application of the bank was



allowed and the defendants therein which included the appellant were jointly and severally held liable to pay to the bank the debts with interest amounting to Rs. 2,11,96,199/-. It is against this order that the appellant preferred CWJC no. 11299 of 2023 which was dismissed by the order impugned.

7. Having perused the material on record, this Court finds that there is no doubt that the appellant has an alternate and efficacious remedy of filing an appeal under section 18 of the SARFAESI Act against the order impugned in the writ application as held by the learned Single Judge. The learned Single Judge not having exercised discretion in view of the alternate statutory remedy available to the appellant, this Court does not find the non-exercise of discretion to be unreasonable or any reason to take a different view in the matter.

8. The Court finds no merit in the instant appeal and the same is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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