

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8705 of 2014

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Shyam Bihari Sinha S/o Shri Radhika Prasad Sinha R/o Sadar Tola, Gulab Bagh, Distt. Purnea.

... .. Petitioner

Versus

1. The State Bank Of India through its Branch Manager, Gulabbagh Branch, Purnea.
2. The Presiding Officer, Debt Recovery Tribunal 34, Bank Road, Opp. New Police Line, Patna - 800001.
3. M/S Purnea Talkies Company through Dharmo Narayan Saha S/o Late Suraj Lal Sah R/o Mohalla High School Para, Katihar, P.S. Katihar, Distt. Katihar.
4. Sri Dharmo Narayan Saha S/o Late Suraj Lal Sah R/o Mohalla High School Para, Katihar, P.S. Katihar, Distt. Katihar.
5. Sri Hari Narayan Saha S/o Jagmohan Saha R/o Mohalla High School Para, Katihar, P.S. Katihar, Distt. Katihar.
6. Sri Jagmohan Saha S/o Sarju Lal Saha R/o Mohalla High School Para, Katihar, P.S. Katihar, Distt. Katihar.
7. Smt. Ajanta Saha W/o Jagmohan Saha R/o Mohalla High School Para, Mohan Bagan Lane P.S. Katihar, Distt. Katihar.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Arbind Kumar Jha, Advocate
For the Respondent (Bank)	:	Mr. Hemant Kumar Sharan, Advocate
	:	Mr. Anant Kr. Sharan, Advocate
	:	Mr. Prabhat Kr. Sharan
For the Respondents	:	Mr. Sanjeev Ranjan, Advocate
For Respondent No. 4	:	Mr. J.S. Arora, Sr. Advocate
	:	Mr. Manoj Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL ORDER

23 04-10-2024

1. This Writ petition has been filed for the

following reliefs:

“(i). For declaration vide order dated 01.04.2014 passed by Presiding Officer, Debt Recovery Tribunal (in short ‘DRT’), wherein the Tribunal condoned the delay in filing Appeal No. 5 of 2008, preferred by Certificate debtors on the ground of fraud



and to set aside the sale order dated 19.03.2002 and order dated 01.07.2002, passed by Recovery Officer for which the order of confirmation of sale and sale certificate was issued in favour of the petitioner, being in excess of jurisdiction and contrary to the procedure prescribed by the DRT Act.

(ii). For entertaining the appeal u/s 30 by the Tribunal, which was filed by respondent No. 3 against order dated 19.03.2002 conducting sale and order dated 01.07.2002 confirmation of sale was without following the procedure prescribed by the Act/rules available to the Certificate Debtor in terms of Rule 60 and 61 of the Second Schedule of the Income Tax, 1961 and such appeal u/s 30 could have been entertained by the Tribunal after invoking Rule 60 and 61 of the IInd Schedule and that too after deposit of entire certificate amount.

(iii). For declaration that respondents No. 3 is guilty of suppressing the order passed by this Court on the same subject matter in CWJC No. 4518 of 2001, CWJC No. 4856 of 2004 and CWJC No. 16594 of 2004 vide order dt. 27.9.2007 and in Appeal No. 5 of 2008 and respondent No. 2 is guilty of passing the order without noticing the facts of the above writ petitions which were within their knowledge by virtue of specific observation of this Court in order dt. 27.9.2007 passed in CWJC No. 16594 of 2004 and were brought to notice of Learned Tribunal in reply to limitation petition in Appeal 5 of 2008 and such act of respondent No. 3 amounts to blatant violation of hierarchy of the Court and both respondent Nos. 2 and 3 are liable to be proceeded for contempt.”



2. Heard Learned counsel for the petitioner as well as Learned counsel for the respondents.

3. It is reported by the Learned counsel for the respondents that the Bank has preferred an appeal against the order of the DRT, Patna dated 01.04.2014 *vide* Appeal No. R52 of 2014, whereas the Debt Recovery Appellate Tribunal, Allahabad (in short 'DRAT') *vide* judgment and order dated 27.02.2019 has set aside the orders of the DRT, Patna dated 01.04.2014 and, therefore, the Writ petition itself has become infructuous.

4. Further, relief which has been sought by the petitioner in this case is that respondent Nos. 2 and 3 are liable for contempt as they have suppressed the orders passed by this Court in CWJC No. 4518 of 2001, CWJC No. 4856 of 2004 and CWJC No. 16594 of 2004. The said prayer cannot be taken into consideration as this Court is not holding contempt jurisdiction. If at all, the petitioner is aggrieved by the acts of respondent Nos. 2 and 3, he ought to have file Contempt Petition against them within the period of limitation for the respondents for not acting in



accordance with the orders in the CWJCs as stated Supra.

5. Therefore, this Court is of the considerable view that the Writ petition itself has become infructuous, and it is liable to be dismissed.

6. However, the petitioner is arrayed as respondent No. 7 in CWJC No. 12230 of 2019 and notice was also served on him. Therefore, if at all, the petitioner has any grievance against the respondents herein, he can take all necessary pleas in the said Writ petition by filing a detailed counter, which shall be considered by this Court.

7. In result, the Writ petition is dismissed as infructuous.

(G. Anupama Chakravarthy, J)

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