

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1189 of 2019

In
Civil Writ Jurisdiction Case No.9743 of 2017

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1. Laxmi Cycle Store through its Proprietor Kapildeo Prasad aged about 32 Years Male Son of Late Mangal Prasad resident of Ward No.4, Dayaram Bhaluhi Road, Kateya District Gopalganj- 841437 having its Shop situated at Dayaram Bhaluhi Road, Kateya District- Gopalganj 841437.
 2. Smt. Sarswati Devi Wife of Late Satyanarayan Prasad Resident of Usari Bujurga, M.H. Nagar, P.S.-M.H. Nagar, P.O.-Hasanpur, District-Siwan.
 3. Smt. Kiran Devi Wife of Sri Kapildeo Prasad Resident of Ward No. 4, Dayaram Bhaluhi Road, Kateya District-Gapalganj-841437.
 4. Pradeep Kumar Jaiswal, Son of Sri Kapildeo Prasad Ward No.4, Dayaram Bhaluhi Road, Katya, District-Gapalganj-841437.

... .. Appellant/s

Versus

1. The Chief Managing Director (C.M.D.) Head Office State of Bank of India, Mumbai
2. The Chief Manager, State Bank of India, Head Office, Mumbai.
3. The Zonal Manager, State Bank of India, North Bihar, Muzaffarpur.
4. The Branch Manager, State Bank of Kateya Branch, Gopalganj, District-Gopalganj
5. The Presiding Officer, Debts Recovery Tribunal, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Arun Kumar No. 1, Advocate
For the Respondent/s : Mr.Kaushlendra Kumar Sinha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-07-2024

In the above matter, on 19.06.2024, the learned Counsel sought four weeks' time for filing Substitution Petition since the proprietor of the 1st appellant was no more. No Substitution Petition has been filed but, we see that the estate of the deceased, the proprietor is represented by the legal



representatives of the proprietor, Appellant Nos. 3 and 4. In such circumstances, we proceeded to hear the matter.

2. Learned counsel for the appellant submitted that the auction purchase is over and that in fact there was a settlement with the Bank even prior to that.

3. By the impugned judgment, the learned Single Judge has merely refused to exercise the discretion considering the fact that there is an efficacious alternate remedy before the Debt Recovery Appellate Tribunal.

4. We do not find any reason to entertain the appeal against an order by the learned Single Judge refusing to exercise discretion, which we find to be perfectly in order.

5. The appeal stands dismissed.

6. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

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