

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3146 of 2015

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Smt. Munni Kumari Rai W/O Sri Nand Kishor Rai resident No. 11, Babban
Bigha, Post- Ramna District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State Bank Of India through its Chairman Nariman Point, Church Gate, Mumbai
2. The Authorized Officer, State Bank of India , SARB, Administrative Office, Poddar Complex Ramana, Muzaffarpur
3. The Presiding Officer, Debt Recovery Tribunal Patna
4. Manish Kumar son of late Arjun Choudhary , resident of cohalla-Kanahuli, Bishwadutt, Mithanpura, Near B.M.P. - 6 Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad, Advocate
For the Respondent/s : Mr. Kaushlendra Kumar Sinha, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 11-04-2025

1. Heard the Learned counsel for the petitioner as well as the Learned counsel for the respondent State Bank of India.

2. The petitioner has filed the instant application for the following reliefs:

“i. That this writ petition on behalf of the so petition with a prayer quash the entire Sale proceeding held on 10th Feb 2013 in the premises of the State Bank of India SMECC/SARK Mithanpura at an undervalued price and



in complete valuation of Rule 8 and 9 of the Security (Enforcement) Rules 2002 as with regard to her property situated at Mohalla Kanhauli Bishnudatt Shri Krishna Nagar ward no. 48 (New) Thana Mithanpura, District Muazffarpur, Thana no. 411, Khata no. 353, Khesara no. 2037 (Part) measuring 8 Decimals and further for issuance of a writ in the nature of a writ of Mandamus commanding upon the Respondent Authorities to hold fresh auction of the properties in question after quashing the entire sale proceeding held on 10th February 2013 and the petitioner be given opportunity to the petitioner to repay the amount of the Bank's dues."

3. At the outset, the Learned counsel for respondent Bank contended that Statutory alternative remedy is available to the petitioner to prefer an appeal before the DRAT and instead of approaching the Appellate Tribunal, the present writ petition has been filed which is not maintainable. In this connection the Learned counsel has place reliance on the judgment of



Hon'ble Supreme Court as reported in **(2024) 2 SCC 1 (CELIR LLP Versus. BAFNA MOTORS (MUMBAI) PVT LTD & ORS)** in which their Lordships have observed as follows:-

"101. More than a decade back, this court had expressed serious concern despite its repeated pronouncements in regard to the High Courts ignoring the availability of statutory remedies under the RDBFI Act and the SARFAESI Act and exercise of jurisdiction under article 226 of the constitution. Even after, the decision of this court in Satyawati Tondon [United Bank of India V. Satyawati Tondon, (2010) 8 SCC 110: (2010) 3 SCC (Civ) 260], it appears that the High Courts have continued to exercise the writ jurisdiction under Article 226 ignoring the statutory remedies under the RDBFI Act and the SARFAESI Act."

4. The Hon'ble Apex Court has further observed in the case of **PHR INVENT EDUCATIONAL SOCIETY VS UCO BANK & ORS**



reported in **2024 INSC 297** as follows:-

"22. It can thus be seen that it is more than a settled legal position of law that in such matters, the High Court should not entertain a petition under Article 226 of the constitution particularly when an alternative statutory remedy is available.

"30.It has however been clarified that the High Court will not entertain a petition under Article 226 of the constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance.

"33. While dismissing the writ petition we will have to remind the High Courts of the following words of this Court in the case of Satyawati Tondon (Supra) since we have come across various matters wherein the High Courts have been entertaining petitions arising out of the DRT Act and the SARFAESI Act in spite of availability of an effective



alternative remedy:-

"55. It is a matter of serious concern that despite repeated pronouncement of this Court, The High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection".

5. The Apex Court has time and again stated that once there is Statutory alternative remedy available, the High Court cannot entertain a writ petition.

6. Taking into consideration the aforesaid rulings of the Apex Court and without going into the merits of the case, this Writ petition is disposed of with liberty granted to the petitioner to



approach the Debts Recovery Appellate Tribunal, to challenge the impugned orders, which shall be entertained by the Debts Recovery Appellate Tribunal. The delay in filing the appeal, if any, shall be condoned by the Appellate Tribunal, in view of the fact that this writ petition has remained pending since the year 2015.

7. It is needless to mention that before passing any order, the DRAT concerned shall give an opportunity of hearing to the petitioner.

8. With the aforesaid observations, the Writ petition stands disposed of.

9. Interlocutory Application, if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.04.2025
Transmission Date	

