

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19703 of 2021

1. Charter Awadh Educational Trust At and P.O. - Belawaiyan, P.S. - Dinara, District - Rohatash - 802213, through its Managing Trustee Sri Satyendra Kumar.
2. Sri Satyendra Kumar Son of Sri Ram Awadh Singh Managing Trustee Charter Awadh Educational Trust, resident of At - Prastampur, P.O. - Karhausi, P.S. - Dinar, District- Rohatash - 802218.

... .. Petitioner/s

Versus

1. State Bank of India constituted under State Bank of India Act, 1955 carrying on the business of Banking having its corporate centre at Madame Cama Road, Nariman Point, Mumbai through its Chairman.
2. The Chairman State Bank of India, At - Madame Cama Road, Nariman Point, Mumbai.
3. The State Bank of India, Stressed Assets Management Branch, (SAMB), Judges Court Road, Anta Ghat, Patna - 800001, through its Divisional General Manager.
4. The Divisional General Manager, State Bank of India, Stressed Assets Management Branch, (SAMB), Judges Court Road, Anta Ghat, Patna - 800001.
5. The State Bank of India, Stressed Assets Resolution Branch, (SARB), 2nd Floor, Main Branch Building, West Gandhi Maidan, Patna - 800001, through its Assistant General Manager.
6. The Assistant General Manager, State Bank of India, Stressed Assets Resolution Branch, (SARB), 2nd Floor, Main Branch Building, West Gandhi Maidan, Patna - 800001, through its Divisional General Manager.
7. The Authorized Officer, State Bank of India, Stressed Assets Resolution Branch, (SARB), 2nd Floor, Main Branch Building, West Gandhi Maidan, Patna - 800001.
8. The Senior Branch Manager, State Bank of India, Bikramganj Branch, At and P.O. and P.S. - Bkranganj, District- Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. M.N. Parvat, Sr. Advocate
Mr.Praveen Prabhakar, Advocate
For the Respondent/s : Mr. Sanjay Singh Thakur, Advocate
Mr. Parijat Saurav, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
CAV JUDGMENT



(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date : 08-12-2021

The present writ petition has been filed for quashing the Inventory dated 05.01.000 prepared by the Authorized Officer, by which possession of the school building has been taken under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'Sarfaesi Act, 2002').

The brief facts of the case according to the petitioners are that the petitioner no. 1 is a trust formed for the purposes of setting up of a school and the petitioner no. 2 is the Managing Trustee of the petitioner no. 1. The petitioners had taken loan from the respondent State Bank of India, Bikramganj Branch to the tune of Rs. 150.00 lakhs whereafter the petitioners had constructed the school building. In the month of March, 2016, the petitioners had again applied for enhancement of loan and a further loan of a sum of Rs. three crores were sanctioned by the respondent Bank. Subsequently, on account of non-payment of the installments of the loan in question, the loan account of the petitioners were declared N.P.A. The bank had then taken action for recovery of the entire loan amount and had filed O.A. No. 295 of 2018 before the Debt Recovery Tribunal, Patna under Section 19 of the Recovery of Debt and Bankruptcy Act,



1993 and the case was decreed by the learned Tribunal vide order dated 02.02.2019 against the petitioners whereafter R.P. No. 162 of 2019 was registered for recovery of decreed amount in terms of the said judgment.

The learned senior counsel for the petitioner has submitted that the authorities of the Bank has suddenly taken the possession of the building in question on 05.08.2021 and locked the entire premises purportedly, under section 13(4) of the 'Sarfaesi Act, 2002'. It is submitted that the petitioners are ready to liquidate the due amount in installments and enter into an amicable settlement with the respondent Bank, hence the case of the petitioners be considered sympathetically in view of the fact that upon closure of the school in question, the future prospect of the children would suffer.

We had put a query to the learned senior counsel for the petitioners as to whether the petitioners are ready to pay even the outstanding amount of loan which is due and payable according to them i.e. a sum of Rs. 3.50 crores, to which the learned senior counsel for the petitioner has failed to give any satisfactory reply.

Per contra, the learned counsel for the respondent Bank has raised a preliminary issue with regard to maintainability of



the present writ petition inasmuch as the petitioners have a remedy of filing an application under section 17(1) of the 'Sarfaesi Act, 2002', against the action taken by the respondent Bank under Section 13(4) of the 'Sarfaesi Act, 2002'.

We have heard the learned counsel for the parties and perused the materials on record and find that the petitioners have failed to show their bona fide inasmuch as they are not ready to deposit any substantial amount out of the outstanding loan amount, due and payable, even according to them. We further find that the present writ petition is not maintainable and the appropriate remedy for the petitioner is to file appropriate appeal under Section 17 of the 'Sarfaesi Act, 2002'. In this regard, we would refer to the judgment rendered by the Hon'ble Apex Court in the case of *United Bank of India vs. Satyawati Tondon* reported in (2010)8 SCC 110, the one reported in (2013) 9 SCC 620 (*Standard Chartered Bank vs. Noble Kumar*) and the one reported in (2018) 3 SCC 85 (*State Bank of Travancore vs. Mathew K.C.*).

Having regard to the facts and circumstances of the case and considering the provisions of the 'Sarfaesi Act, 2002' and the aforesaid judicial pronouncements of the Hon'ble Apex Court, we do not find any merit in the present writ petition,



hence the same stands dismissed, however, without any order as to costs.

(Rajan Gupta, J)

Mohit Kumar Shah, J:- I agree.

S.Sb/-

(Mohit Kumar Shah, J)

AFR/NAFR	
CAV DATE	30.11.2021
Uploading Date	
Transmission Date	

