
(2002) 09 PAT CK 0057
In the Patna High Court
Case No : L.P.A. No. 980 of 2002

Sri Gajraj Jain and Another	Vs	APPELLANT
State of Bihar and Others		RESPONDENT

Date of Decision : 12-09-2002

Acts Referred:

Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 19(22), 20

Citation : (2003) 2 BC 36 : (2002) 4 PLJR 651

Hon'ble Judges : Ravi S. Dhavan, C.J.; R.N. Prasad, J

Bench : Division Bench

Advocate : Jitendra Singh, for BICICO, Y.V. Giri and Sanjay Kr. Giri, for the Appellant; Navniti Pd. Singh and Rajesh Mohan for Respondent No. 3 and Ajay Tripathi, for the Respondent

Final Decision : Dismissed

Judgement

This Judgment has been overruled by : Gajraj Jain Vs. State of Bihar and Others, (2004) 3 BC 514 : (2004) 121 CompCas 112 : (2004) 5 SCALE 693 : (2004) 7 SCC 151 : (2004) 52 SCL 746 : (2004) 2 SCR 677 Supp

1. This Letters Patent Appeal is against the order dated 16th August, 2002 on C.W.J.C. No. 6438 of 2002, Gajraj Jain and Anr. v. State of Bihar and Ors.
2. It would be best to produce the last submission in the case at the very outset. The last submission was that regard being had to the circumstances that the Debt Recovery Tribunal, Bihar, Patna has given a decision dated 22 July, 2002, a part of which was in favour of the petitioner appellants, the learned Judge should not have interfered with the matter and not decided the matter either.
3. The plain question is that the obligation to bring the order of the Tribunal before the Hon'ble Judge was upon the petitioner who invoked the writ jurisdiction of the High Court. When the petition was filed, a proceeding before the Debt Recovery Tribunal as Central Bank of India, Katihar Branch, Katihar v. M/

s. Katihar Flour Mills (P) Ltd. and 16 Ors., O.A. No. 2 of 2001, was pending. The Hon''ble Judge has recorded more than once that there has been material suppression of facts on behalf of the petitioners. The Hon''ble Judge also records that as on the day of the order a suit before the Debts Recovery Tribunal, Bihar, Patna being O.A. Case No. 2 of 2001 is pending. Nowhere in the writ petition or in an affidavit filed subsequently before the Hon''ble Judge the fact was brought to the notice of the Court that the Tribunal had decided the matter by an order dated 22 July, 2002. In the circumstances, there was no obligation upon the Hon''ble Judge not to have decided the writ petitioner when the petitioners chose to contest the matter and submitted on merits. The Hon''ble Judge declined to grant reliefs sought in the writ petition.

4. The question is what is the issue about? While one creditor claims Rs. 9,00,000/- and another about Rs. 2,00,00,000/- and odd, both figures are mentioned in the first paragraph of the Hon''ble Judge's order. The petitioners contend that they should have been given an option and an initiative to be brought into the picture on whatever was being sold or whatever was not meant to be sold.

5. No relief in the petition is against any order of the Tribunal. Clearly, if matters were pending before the Tribunal, there is no aspect which the Tribunal could not consider and there is no relief which the petitioners could not ask the Tribunal and instead were seeking from the High Court while matters were pending before the Tribunal also. Even if this Court were to ignore the observations of the Hon''ble Judge on the aspect of material suppression, of the facts in the writ petition, no satisfactory explanation has been forthcoming before this Court in the Letters Patent Appeal as to how the appellants did not bring the order of the Tribunal of 22nd July, 2002 on an affidavit before the learned Judge that the suit had been decided.

6. It was entirely up to the petitioners, if they were conscious of the aspect that the Tribunal had rendered an order on 22nd July, 2002 deciding the suit, not to have pressed the writ petition. In the circumstances, the Tribunal having delivered its order with a direction that a certificate be issued under Sub-section (22) of Section 19 of the Recovery of Debts Due to Banks And Financial Institutions Act, 1993, the proceedings in the suit before the Tribunal were over. Any party if aggrieved by this order of the Tribunal or seeking further reliefs could not open a second front before the High Court in its writ jurisdiction when a clear alternate remedy as an appeal would lie u/s 20 of the Act, aforesaid.

7. The Court is constrained to observe that the case of the petitioners as presented before the Writ Court (C.W.J.C. No. 6438 of 2002) and the appeal before this Court was not fairly put on record, and this offends the concept of justice, equity and good conscience.

8. The learned Judge has committed no error to occasion interference in the order on the writ petition.

9. Dismissed.