
(2011) 02 JH CK 0007
In the Jharkhand High Court
Case No : W.P.C. No. 5685 of 2010

Upendra Narayan Singh

APPELLANT

Vs

Bank of India and Others

RESPONDENT

Date of Decision : 25-02-2011

Acts Referred:

Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 1(4), 31, 31A

Citation : (2011) 2 JCR 323

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K. Merathia, J.—Learned Counsel for the Petitioner submitted that in view of Section 31A of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (the Act for short), the bank could not proceed before the Debts Recovery Tribunal as the decree was drawn by the Sub Judge on 21/05/2007 but the execution case was filed on 23/12/2008 before DRT.

2. Mr. Rajesh Kumar, learned Counsel for the bank submitted that such objection should have been raised by the Petitioner before the DRT itself.

3. On this, counsel for the Petitioner submitted that such objection was raised by other parties (Guarantors) in the present case but the same has been rejected by the DRT by order dated 30/06/2010 (Annexure 4).

4. It appears from Section 1(4) of the Act, that interalia provisions of the Act applies where the amount of debt is more than Rs. 10 lakhs. It further appears from the execution petition, filed by the bank, that the amount including the interest was about Rs. 25 lakhs. Section 31 interalia provided that every suit and every proceeding, pending before any Court immediately before the date of establishment of the Tribunal under the Act, stood transferred on that date to the Tribunal. Section 31A interalia provides that even where the decree or order was

passed by any court before commencement of Amendment Act, 2000 and was not executed, the decree holder may apply to the tribunal to pass an order for recovery of the amount. Thus, there is no bar for the bank to apply to the tribunal for recovery of the amount of a decree passed after the amendment Act, 2000 came in force.

5. It appears from the order dated 30/06/2010, passed by the DRT, Ranchi (Annexure 4) that the objections raised by the borrower in this writ petition, were raised by the guarantors also before the tribunal but after considering the matter in detail and taking into consideration the relevant aspects of the matter, such objections have rightly been rejected.

6. In my view, no grounds are made out for interference in this writ petition. Accordingly, it is dismissed. However, no costs.