

(2002) 11 PAT CK 0053

Patna High Court

Case No: L.P.A. No. 1170 of 2002

Anil Srivastava

APPELLANT

Vs

The State Bank of India and
Others

RESPONDENT

Date of Decision: Nov. 13, 2002

Citation: (2003) 2 PLJR 289

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

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. This letters patent appeal has been filed to quash the order dated 4 October 2002 on MJC. No. 1609 of 2002 in CWJC. No. 10885 of 2001 : Anil Srivastava. v. The State Bank of India and Ors.

2. The contention of learned Counsel for the Appellant on this letters patent appeal is that when the order dated 18 July 2002 had been passed he had not been heard. The learned Judge has recorded that the order had been passed on merits and it is not that the case has been dismissed for default.

3. There is another aspect of this litigation which the Appellant has generated and the Court has to be cautious on what exactly the issues are between the Appellant and the Bank. The Appellant accepts that he took out a loan in the year 1985 for an amount of Rs. 2,50,000/-. This is 17 years ago. The Appellant did not clear his bebt. He tied up the Bank in litigations. So much so he had to be sent to a civil prison in Certificate Case No. 32 of 1991-92. On the writ petition the Appellant had been given a latitude that he be released from the prison upon furnishing sureties with assurance he would discharge the loan. Despite the order of the High Court dated 12 September 2001 and in the face of the fact that the Appellant has been sent to a civil prison on a certificate action, the loan still remains undischarged.

4. Neither equity nor law is in favour of the Appellant. Taking a loan from the Bank rests on a contract which rests on equity. The Appellant has violated every principle of equity in not discharging a loan for 17 years. The law cannot come to his aid. The High Court should not exercise its discretion in his favour as the time has come for the Court to observe its concern that if persons like the Appellant who took loans from finance institutions and Banks make a habit of not paying their debts then such person contribute to the deficit financing of the nation's planned economy. For every person in the category of the Appellant who avoid payment of loans, innocent people have to suffer when this deficit has to be made up by raising taxes direct or indirect.

5. Recently, the Reserve Bank of India communique announces that Rs. 56,507/-crores is tied up in litigations on undischarged debts of loans not returned to Banks. This is a staggering amount. The Appellant is one such person who has contributed to this.

6. As the nation moves into a liberalized economy another Code of conduct has to be understood between the Bank as a lender and persons like the Appellant as borrowers. The nation and its Banks cannot go on chasing up recoveries of bad debts loans every time. Persons like the Appellant may disappear into the oblivion leaving bad debts.

7. In the circumstances, the Court is not inclined to interfere on this letters patent appeal.

8. Dismissed.

9. Let a copy of this order be sent to the Reserve Bank of India.