

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13019 of 2016**

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M/s Hialog Food Industries Pvt. Ltd., a company registered under the Companies Act, 1956 having its registered office at 1, R.N.Mukherjee Road, 5<sup>th</sup> Floor, Room No. 39 Bihar State Power Holding Company Ltd. Kolkata – 700001 through one of its' directors, namely, Rupesh Sharma son of Sri Prem Narayan Sharma, Resident of 35/A, N.S.Road, Rishra, Hooghly – 712248, West Bengal.

.... .... Petitioner

Versus

1. The State of Bank of India, a banking company created under the State Bank of India Act, 1955 having its corporate office at State Bank Bhawan, Madam Cama Road, Mumbai through its Chairman cum Managing Director
2. The Chairman-cum- Managing Director, State Bank Bhawan, Madam Cama Road, Mumbai through its Chairman cum Managing Director
3. The State Bank of India, Ballygunje Commercial Branch at Kolkata through its Chief Engineer
4. The State Bank of India Stressed Assets Management Branch-11, Jeevan Deep Building, 2<sup>nd</sup> Floor, 1, Middleton Street, Kolkata- 700071 through its Authorised Officer
5. The Authorized Officer, State Bank of India Stressed Assets Management Branch-11, Jeevan Deep Building, 2<sup>nd</sup> Floor, 1, Middleton Street, Kolkata- 700071
6. M/s. Siddhi Refoils and Industries Pvt. Ltd. having its place of business at Parijat Apartment, 24A, Shakespeare Sarani, Kolkata- 700017
- 6A. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna
7. The District Magistrate, Hazipur Vaishali
8. The Sub-Divisional Officer, Hazipur
9. The Circle Officer, Hazipur Vaishali

.... .... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. P.K.Shahi, Sr. Advocate<br>Mr. Gautam Kr Kejriwal, Advocate        |
| For the State        | : | Mr. Md.Nadeem Seraj-GP-5                                               |
| For the SBI          | : | Mr. Kaushlendra Kr. Sinha, Advocate<br>Mr. Anjani Kr. Mishra, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA**  
**ORAL ORDER**

2      09-08-2016

As prayed for, learned counsel for the petitioner

is permitted to remove the defect by tomorrow.

Heard learned counsel for the petitioner and

learned counsel for the State Bank of India as also learned counsel for the State.

The petitioner has filed this writ application seeking a direction upon the respondent Nos. 7 to 9, the District Magistrate, Vaishali at Hajipur, Sub-divisional Officer, Hajipur and Circle Officer, Hajipur restraining them from disturbing the peaceful possession of the assets covered by the sale deeds executed by respondent no.6, which, according to the petitioner, had never been placed as security and mortgaged with the respondent-Bank by the borrower company, respondent no. 6 and thus, according to learned Senior counsel for the petitioner, there is no jurisdiction in the Bank to proceed against the said property under the provisions of the SARFAESI Act, 2002.

It is, however, submitted by learned Senior counsel that the petitioner for protecting its interest has already filed an appeal under Section 17 of the Act before the Debts Recovery Tribunal, Patna as also an application under Section 14 before the District Magistrate.

It is further submitted that a prayer for interim order has also been made in the prescribed form for filing of the appeal by the petitioner.

In the above circumstances, it does not appear

proper for this Court to entertain the writ application as the petitioner has exercised its statutory rights in the matter. However, considering the fact that the Bank is proceeding in the matter to dispose of the properties which are not covered by any mortgage or other charge with the Bank the writ application is disposed of with the liberty as sought by the petitioner to file a fresh detailed stay petition in SA No. 134/2015 pending before the DRT, Patna which shall be considered and disposed of by the DRT, Patna as expeditiously as possible, preferably within a period of one month from the filing of the detailed stay petition pursuant to the prayer for interim order made earlier alongwith a copy of this order.

It is further directed that until disposal of the prayer for interim order, the respondents shall not take coercive action so far as the properties in dispute in the present matter are concerned.

**(Ramesh Kumar Datta, J)**

S.Pandey/-

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