

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3497 of 2018

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1. M/s Anubhav Trading Through Its Proprietor Srinivas Singh
 2. Srinivas Singh Son of Awadhesh Kumar Singh
 3. Awadhesh Kumar Singh Son of late Harivansh Prasad Singh
All R/o Radhakunj, Near Pani Tanki Chowk, Mithanpura, District-
Muzaffarpur.

... .. Petitioner/s

Versus

1. The Bank Of Maharashtra, Muzaffarpur Branch, Chandralok Towers,
Chadralok Chowk, Muzaffarpur
2. The Presiding Officer Debt Recovery, Karpuri Thakur Sadan , Aashiana
Digha Road, District- Patna.
3. Sanjay Chaudhary Son of late Hardo Chaudhary R/O Kanhauli
Vishundalt, P.S. and District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Fakruddin Ali Ahmad, Advocate
For the Respondent : Mr. Rahul, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 13-09-2019

I.A. No. 2 of 2019

Interlocutory Application No. 2 of 2019 is allowed.

Let the name of petitioner no. 2 be expunged and name
of his legal heirs as stated in paragraph '3' of the interlocutory
application be substituted in the records.

Heard learned counsel for the petitioner and learned
counsel for the bank.

This writ application seems to be wholly misconceived,
inasmuch as, the prayer of the petitioner is to restrain the Bank
from proceeding under the provisions of the Securitization and
Reconstruction of Financial Assets and Enforcement of Security
Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act,



2002'). It is well settled in law that no Mandamus can be issued against the statute.

The SARFAESI Act, 2002 is a complete Code unto itself and in case the petitioner will have any occasion to be aggrieved by any action taken by the Bank under the provisions of the SARFAESI Act, 2002, he will be at liberty to seek his remedy under the said Act itself.

Learned counsel for the Bank informed this Court that the petitioners have already filed S.A. No. 96 of 2018 on 7th June, 2018 before the Debts Recovery Tribunal.

By filing I. A. No. 4270 of 2018, the petitioner had been seeking stay of the auction sale of the property in question. The Interlocutory Application is also misconceived, inasmuch as, in the writ application the e-auction sale action taken by the Bank in terms of Section 13(4) of the SARFAESI Act, 2002 is not under challenge and the same is also appealable action in terms of Section 17 of the SARFAESI Act, 2002.

The writ application as well as the I. A. No. 4270 of 2018 are, thus, not fit to be entertained. Those are dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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