

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18955 of 2015**

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Rajesh Kumar Son of late Shashi Ranjan Sahu Presently residing at  
87,Jorbagh, Lodi Road, New Delhi.

... .. Petitioner

Versus

1. Canara Bank, Exhibition Road, Patna – 800 001 through its Chief Manager.
2. The Chief Manager, Authorized Officer, Canara Bank, Exhibition Road, Patna.
3. M/s Ashok Auto Enterprises Pvt Ltd. through its Director Mrs. Neelam Sahu W/o Sri Prabhat Sahu Resident of 197-B,S.K Puri ,Patna Registered office at Exhibition Road,P.s Gandhi Maidan District Patna.
4. Sri Sanjay Kumar S/o Sri Laxmi Rai, resident of Imadpur, Bhagwanpur, District- Vaishali, Bihar Pin- 844114

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr.Manik Vedsan, Advocate  
For the Respondent/s : Mr.Rajan Ghoshrahe, Advocate  
Mr. Sanjay Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

7      06-11-2019                      Heard learned counsel for the petitioner and  
  
learned counsel representing the Bank and the private  
  
respondents.

The petitioner in the present case is looking for an  
  
order of restraint against respondent Bank from selling the  
  
property having an area of 2000 Sq. Ft. of constructed flat  
  
in S.P. Verma Road at Patna. The petitioner happened to be  
  
a guarantor to the financial assistance provided to the  
  
borrower namely, M/s Ashoka Auto Enterprises (P) Limited.



In fact, the borrower had challenged the E-Auction sale notice of the property in question by filing a securitization application before the Debts Recovery Tribunal at Patna giving rise to S.A. No. 178/2015. The issue of valuation etc. were also raised by the borrower. S.A. No. 178/2015 was dismissed by the Tribunal on 20.11.2015. The said order was challenged by the borrower before this court in CWJC No. 18790/2015 which has been heard and disposed off by this court vide order dated 05.08.2019. This court has granted borrower liberty to move before the Debts Recovery Appellate Tribunal against the order passed by the Debts Recovery Tribunal at Patna. A Civil Review Application bearing No. 272/2019 by the borrower has also been disposed off today.

In sum and substance, the grievance of the petitioner, in the present case, is the same as were that of the borrower. In such view of the matter, this writ application is also disposed off by granting liberty to the petitioner to seek his remedy against E-Auction sale of the property in question before the appropriate forum under the provisions of the SARFAESI Act, 2002 itself which is said to be



complete code unto itself.

If the petitioner applies for such a remedy within a period of 30 days from today, the same will be considered by the concerned forum/Tribunal as the case may be, and, in case a question of limitation arises for consideration, the same will be considered keeping in view that the petitioner was pursuing his remedy before this court since 09.12.2015 and the writ application was pending consideration.

The Writ Application stands disposed off accordingly.

**(Rajeev Ranjan Prasad, J)**

Rajeev/-

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