

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24430 of 2018

1. Manisha Kumari W/o Dr. Manoj Kumar, Resident of House No. 4, Road No. 5, Indrapuri, P.S. - Patliputra, Phulwari, Keshri Nagar, Patna – 800024.
2. N.K.P. Sinha, Son of Late Chadra Prasad Singh, R/o Turki, P.S. Turki, District – Muzzafarpur.
3. Mukesh Jha Son of Kailash Chandra Jha, R/o Shiv Puri, P.S. S.K. Puri, District – Patna.
Sumany Bhardwaj, Sonof Dr. Manoj Kumar, Resident of Indrapuri, Road No. 5, P.S. - Patliputra, District Patna – 800024.
5. Manoj Kumar son of Satya Narayan Singh, R/o Indrapuri, Road No. 5, P.S. - Patliputra, District Patna – 800024.

... .. Petitioners

Versus

1. Allahabad Bank, through its Managing Director, a banking company registered under the Banking Regulation Act, 1949 having its head office at Netajee Subhash Road, Kolkata – 700001.
2. The Authorized Office, Allahabad Bank, Main Branch Budh Marg, Patna – 800001.
3. The Assistant General Manager, Allahabad Bank, Budh Marg, Patna – 800001.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Nilanjana Chatterjee
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 06-03-2019 This writ application has been preferred to challenge the proceeding initiated under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as ‘the SARFAESI Act’).

The petitioners have disclosed in the writ application that the Allahabad Bank (in short ‘Bank’) while processing the application for grant of loan, approved the loan amount of Rs. 14.08 crores but asked the institution to provide 100% collateral security. Since the institution could not provide the requisite 100%



collateral security, the Bank asked the guarantors for mortgage of their personal lands knowing it fully well that the lands are agricultural land and are being used for agricultural purposes by the petitioners. The petitioners are now contending that the Bank accepted the same and extended the financial support to the institution. At this stage, submission is that SARFEASI proceeding cannot go on against Agricultural Land.

The Court is surprised on the stand taken by the petitioners in the writ application. It is the petitioners who provided the agricultural lands according to them as collateral security and the Bank accepted the same to extend the financial support to the institution. If it is the contentions of the petitioners that the Bank accepted the same knowing fully well that these are agricultural lands, it may be indicating something wrong on the part of the officials of the Bank as well as the petitioners in the whole procedure adopted towards sanction of the loan and disbursement thereof. So far as this Court is concerned, sitting in its writ jurisdiction under Article 226 of the Constitution of India would not delve in the nature of lands which were offered by the petitioners and accepted by the Bank and their present position.

At this stage, learned counsel representing the petitioners submits that since the petitioners have got a statutory remedy by filing of securitization application under Section 17 of



the SAFAESI Act, 2002 against the action taken by the Bank under Section 13(4) of the SARFAESI Act, 2002, he may be permitted to withdraw this application with liberty to seek his remedy before the appropriate forum in accordance with law.

In the aforesaid view of the matter, the writ application is permitted to be withdrawn with liberty to the petitioners to seek their remedy before the Debts Recovery Tribunal.

If any question of limitation would arise, the same shall be considered keeping in view that the petitioners had moved this Court by filing this writ application which was pending consideration till today.

The petitioners will be at liberty to raise all such pleas which will be available to him before the appropriate forum as this Court has not expressed any opinion on the plea of the petitioners which cannot be considered in the writ jurisdiction of this Court.

This writ application stands disposed off with the observations and directions recorded hereinabove.

(Rajeev Ranjan Prasad, J)

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