

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CIVIL WRIT JURISDICTION CASE No. 5663 of 2020**

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M/s Prince Masala, through its proprietor Sri Triveni Prasad (male), aged about 48 years, son of late H.P. Choudhary, resident of Prince Masala Company, C-8 Industrial Area, Bela, P.S.-Bela, District-Muzaffarpur.

... ..Petitioner

Versus

1. The State of Bihar through the Collector at Muzaffarpur.
2. The Prabhari Padhadhikari, Jila Vidhi Prashakhar, Muzaffarpur (office of the District Magistrate).
3. Assistant General Manager, SRESSED Assets Recovery Branch, State Bank of India, 2nd Floor, Patna Main Branch Building, Patna.
4. Authorized Officer, State Bank of India, SARB, Patna.
5. The Branch Manager, State Bank of India, Bela Branch, Muzaffarpur, District-Muzaffarpur.

..... Respondents.

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Appearance :

For the Petitioner/s	:	Mr. Ajay Prasad, Advocate
For the Bank	:	Mr. Santosh Kumar Singh, Advocate
For the State	:	Mr. Ajay Kumar, AC to GP-4.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 18.05.2020 Heard Mr. Ajay Prasad, learned counsel for the petitioner. Mr. Santosh Kumar Singh, learned counsel for the State Bank of India has joined and argued through the mobile phone of the Bench Officer as he was facing some technical glitch. Learned counsel for the State is present.

Initially, learned counsel for the petitioner tried to give an impression to this Court that the District Magistrate, Muzaffarpur has issued the memo no.148 dated 28.01.2020, as contained in Annexure-1 to the writ application, without there



being any earlier proceeding initiated by the Authorised Officer of the Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act, 2002'). On query made by this Court, learned counsel repeatedly said that no notice under Section 13(2) and 13(4) of the SARFAESI Act, 2002 has been earlier issued.

At this stage, Mr. Santosh Kumar Singh, while joining the hearing through the mobile phone, informed this Court that the statements of learned counsel for the petitioner are not correct. It has been submitted that as back as on 29.03.2019 notice under Section 13(2) was issued to the petitioner and Section 13(4) action was taken on 25.10.2019. The Court was also informed that the petitioner has filed another writ application being CWJC No.22406 of 2019 in this Court. Thus, learned counsel for the Bank has submitted that the petitioner has made a misleading statement before this Court.

In the writ application, the petitioner has not made any categorical statement that earlier no SARFAESI proceeding was initiated.

At this stage, finding himself in difficulty and sensing that wrong statement was made before this Court while seeking



relief, learned counsel for the petitioner prays to withdraw this writ application unconditionally. The Court was willing to impose some cost against the petitioner but finding that the petitioner should not be punished for a wrong statement made at the bar, this Court has restrained itself from imposing any cost.

This writ application is, thus, permitted to be withdrawn. It is dismissed accordingly,

(Rajeev Ranjan Prasad, J)

Arvind/-

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

