

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21957 of 2018

=====

Upendra Pathak Son of Ate Ram Prasad Pathak, Resident of Village- Marar,
P.S.- Rahika District- Madhubani.

... .. Petitioner/s

Versus

1. The Allahabad Bank Through Its Chairman Cum Managing Director and Ors
2. The Authorized officer Zonal Managers office Allahabad Bank Om Shanti Complex Zila School Main Road null null
3. The Branch Manager Allahabad Bank, Madhubani, Branch Bala Chawk Madhubani. null null

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Abhinay Ray
	:	Mr. Gagan Deo Yadav
For the Respondent/s	:	Mr.Rajan Ghoshrave

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 20-02-2020

1. The present order is being passed with consent of the parties.

2. The present writ petition has been filed for quashing the notice issued by the respondent- Allahabad Bank dated 24.07.2018 under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (hereinafter referred to as the SARFAESI Act, 2002).

3. The learned counsel for the petitioner has submitted, by referring to the earlier order of this Court dated 27.08.2012 passed in C.W.J.C. no. 14945 of 2012, that earlier



also, a notice under Section 13 (2) of SARFAESI Act, 2002 was issued to the petitioner, whereafter the Bank had taken action under Section 13(4) of SARFAESI Act, 2002 which was challenged and this Hon'ble Court by an order dated 27.08.2012, passed in C.W.J.C. no. 14945 of 2012 had quashed the said action and had directed the Bank to consider the objection of the petitioner under Section 13(3) of SARFAESI Act, 2002 and pass orders thereupon. It is complained that instead, the Bank has issued a fresh notice under Section 13(2) of SARFAESI Act, 2002 dated 19.01.2018 without taking the earlier proceedings, initiated by issuing notice under Section 13(2) of SARFAESI Act, 2002 dated 10.01.2012, to its logical conclusion. It is thus submitted that the action of the Bank is contrary, not only to the provisions of SARFAESI Act, 2002 and in defiance of the Principles of Natural Justice, but also in defiance and disobedience of the earlier order of this Court dated 27.08.2012, passed in C.W.J.C. no. 14945 of 2012.

4. The learned counsel appearing for the respondent- Bank has fairly submitted that in compliance of the earlier order of this Court dated 27.08.2012, the objection of the petitioner under Section 13(3) of the Act, 2002 has neither been considered nor any final order has been passed, hence it is



submitted that in case, the Bank is granted an opportunity, they would definitely pass the final order.

5. Having regard to the facts and circumstances of the case and in view of the agreement reached at in between the parties, the notice dated 19.01.2018 issued by the Allahabad Bank under Section 13(2) of the SARFAESI Act, 2002 and the notice dated 24.07.2018 issued under Section 13(4) of the SARFAESI Act, 2002 are quashed, however with liberty to the respondent-Bank to consider the objections already filed by the petitioner under Section 13(3) SARFAESI Act, 2002 and pass appropriate orders, as already directed by a co-ordinate Bench of this Court in the earlier round of litigation vide order dated 27.08.2012.

6. The present writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

rinkee/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	18.03.2020
Transmission Date	NA

