

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4323 of 2021

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M/s Shankar Sri and Sons Cold Storage Pvt. Ltd. having its Registered Office at place of business at Sri Rampur Ayodhya Pusa Road, P.O. Waini, P.S. Pusa, District Samastipur through its Managing Director, Sanjay Kumar male, aged about 40 years, s/o Shankar Sah r/o Sri Rampur Ayodhya P.O. Waini, P.S. Pusa District Samastipur.

... .. Petitioner/s

Versus

1. The State Bank of India Stressed Assets Management Branch, 5th Floor, Zonal Office Building, J.C. Road, P.S. Pirbahore, Patna.
2. The Authorised Officer, State Bank of India, Stressed Assets Management Branch, 5th Floor, Zonal Office Building J.C. Road, P.S. Pirbahore, Patna.
3. The District Magistrate, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Patanjali Rishi, Advocate
For the State	:	Mr. Raghwendra Kumar, SC 22
For the SBI	:	Mr. A. K. Sharma
		Mr. P. K. Sharma,
		Mr. H. K. Sharma, Advocates

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

1. For issuance of a writ in the nature of certiorari or a writ of certiorari or any other writ of the like nature thereby quashing the Possession Notice (For Immovable Property) dated 18/12/2020 (Annexure P/3) affixed on the premises of the petitioner by the respondent nos. 1 and 2 thereby acting in derogation of the direction of this Hon'ble Court made in CWJC No. 5249 of 2018 which is recorded in the order dated 06/04/2018 of not taking possession of the petitioner's moveable and immoveable properties during the pendency of OA No. 470 of 2017 which is still pending as RP No. 633 of 2018 before the Debt Recovery Tribunal. Patna.
- ii. For issuance of a writ in the nature of certiorari or a writ of certiorari or any other writ of the like nature

thereby quashing the E-Auction Sale Notice for sale of movable and immovable assets vide Reference No. SAMB/CLO-II/RJTJ/489 dated 30/12/2020 and vide Reference No. SMB/CLO-II/RJH/490 dated 30/12/2020 respectively Annexure P/4{SERIES)

iii. For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby declaring the action of the respondent nos. 1 and 2 of taking possession of the moveable and immoveable properties of the petitioner as illegal and contrary to the law and in violation of the direction of this Hon'ble Court in CWJC No. 5249 of 2018.

iv. For issuance of a writ in the nature or mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondent authorities to restore the possession of the moveable and immoveable properties with the petitioner the possessions of which have illegally been taken by the respondent nos. 1 and 2.

v. For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondent authorities to refrain from taking any action contrary to the direction of this Hon'ble Court made in CWJC No. 5249 of 2018 and not to disturb the peaceful possession and operation or the cold storage which is operated by the petitioner.

vi. For issuance of a writ in the nature or mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondent authorities particularly respondent nos. 1 and 2 to refrain from taking any coercive action against the petitioner during pendency of the writ petition.

Vii. for issuance of a writ in the nature or mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondent authorities to refrain from transferring the title or possession of the moveable and immoveable properties of the petitioner or to alienate the same in any manner which have been illegally taken into their possession by the respondent nos. 1 and 2.

Viii. For grant of any other relief as this Hon'ble Court may deem appropriate in light of the facts and circumstances of this case."

Dr. K. N. Singh, learned Additional Solicitor General, invites our attention to the notification dated 13th of December, 2021, whereby Presiding Officer, Debt Recovery Tribunal, Ranchi has been given charge of Debt Recovery Tribunal, Patna

and now the Tribunal is functional.

Learned counsel for the Bank states that the auction sale stands completed, as also possession of the property already stands handed over to the auction purchaser.

In this view of the matter, we are of the considered view that petitioner can agitate all issues before the appropriate forum under the provision of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

Petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.12.2021
Transmission Date	NA