

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8717 of 2021

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M/s Jai Mata Rani Rice Mill through its Proprietor Raju Kumar Rai, aged about 30 years, Male, Son of Suryabansh Rai, resident of Village - Patel Nagar, Bharkhar, P.S. - Mohania, District- Kaimur, PIN - 821109.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Kaimur at Bhabua.
3. The Authorized Officer, Punjab National Bank, Circle Sastra Office, 2nd Floor, Regal Complex, Near Ramna Maidan, Ara, District- Bhojpur.
4. The Branch Manager, Punjab National Bank, Branch Office Akhourri, Mohania, District- Kaimur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dr. Binay Kumar Singh, Advocate Mr. Alok Ranjan, Advocate
For the Respondent/s	:	Mr. U.P. Singh, AC to SC-4

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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 the following relief(s):-

- (i). For a direction upon the Bank, restraining it from taking physical possession of the only residential house of the petitioner on the strength of ex-parte order, passed by District Magistrate, Kaimur at Bhabhua (Respondent No. 2) in an application under Section 14 of the SARFAESI Act filed by the Bank.



- (ii). For issuance of direction upon Respondent No. 2, to recall his order passed in application under Section 14 by the Bank and grant an opportunity to the petitioner by issuing him a notice, and hear him on the factual aspects of the case.
- (iii). For holding that the alleged order not delivered to the petitioner but communicated to him by a letter dated 09.03.2021 has been passed in the teeth of the judgment passed by Hon'ble Allahabad High Court in the case of *Kumkum Tentiwal versus State of U.P. and others* and affirmed by Hon'ble Apex Court in SLP (C) No. 8191 of 2019 whereby and whereunder it has been made mandatory for the District Magistrate to follow the principles of Natural Justice before issuing any order prejudicial to the interest of the Borrowers.
- (iv). For holding that under Section 17(4) of SARFAESI Act, unless and until DRT, where the SARFAESI Application No. 161 of 2020 filed by petitioner is pending, declares the recourse taken by secured creditor under Section 13(4) of the Act to be in accordance with the provisions of this Act and the Rules made thereunder, the secured creditor shall not be entitled to take recourse to one or more of the measures specified under Section 13(4) of the Act to recover his secured debt.
- (v). For any other relief/ reliefs, the petitioner may be found entitled in the facts and circumstances of the present 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.

In this view of the matter, the petitioner can conveniently approach the Tribunal and pursue the proceedings already initiated with reference to the subject matter in issue.

We notice that the Tribunal was not functional for quite some time, which prompted the petitioner to file the present petition on 12th of March, 2021. During pendency of the present petition, the respondents have not taken any coercive steps.

We direct such *status quo* to be maintained for a further period of four weeks to enable the petitioner to move an appropriate application seeking grant of interim relief.

We clarify that our order shall be operational only for a period of four weeks and subject to further orders which may be passed by the Tribunal. Further, if the petitioner does not take steps for seeking interim protection within a period of four weeks, the order of interim protection shall automatically stand vacated.



With the aforesaid observation, the present petition
stands disposed of.

Interlocutory Application(s), if any, stands disposed
of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	16.12.2021
Transmission Date	

