

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.713 of 2022**

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1. M/s Sunita Enterprises represented by its proprietress Mrs. Sunita Devi, Shop No. - 62, Bazar Samiti, Mathurapur, Samastipur, Bihar.
2. Mrs. Sunita Devi Wife of Mr. Raja Ram Ray Residence of Ward No. 7, Village - Sari Anchal - Warisnagar, Behind Bazar Samiti, Samastipur, Bihar.
3. Raja Ram Ray Son of Late Bechan Ray Residence of Ward No. 7, Village - Sari Anchal - Warisnagar, Behind Bazar Samiti, Samastipur, Bihar.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Financial Services, New Delhi.
2. The Debts Recovery Tribunal, through the Registrar, A, B and F Wings, 2nd Floor, Karpuri Thakur Sadan, Kendriya- 2 Karamchari Parisar (GPOA), Near Rajiv Nagar Thana, Aashiana Digha Road, Patna - 800025.
3. The Authorized Officer, Union Bank of India, Regional Office, Samastipur, Panchwati Complex, Mohanpur Road, Samastipur, Bihar Pin Code - 848101.
4. The Branch Manager, Union bank of India, Dharampur Branch, Samastipur, Bihar Pin Code - 848101.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s          | : | Mr.Alok Ranjan, Adv               |
| For the UOI                   | : | Mr.Dr. Krishna Nandan Singh (ASG) |
|                               |   | Mr. Ravindra Kumar Sharma, Adv    |
| For the respondents no. 3 & 4 | : | Mr. Nishi Nath Ojha, Adv          |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 24-02-2022**

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

“(i) For issuance of writ/ order restraining Respondent No. 3 and 4 from executing and taking any action in furtherance of sale notice dated

18.12.2021 (Annexure P/2 of the writ petition) whereby and whereunder the residential house of the petitioners and also agricultural land, have been put on E-auction Sale scheduled on 20.01.2022 during pendency of the SARFAESI Application bearing No 233 of 2021 filed by the petitioners under Section 17 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to, in short as "SARFAESI Act, 2002") before the Debts Recovery Tribunal, Patna.

(ii) For further holding and declaring that the respondent No. 3 and 4 cannot proceed against the petitioners till the SARFAESI Application No. 233 of 2021 filed by the petitioners under Section 17 of the SARFAESI Act 2002 is still pending before Debts Recovery Tribunal (hereinafter referred to, in short as DRT) and the same has to be heard and disposed of in accordance with law

(iii) For further holding and declaring that Right to Remedy is one of the constitutional rights of the petitioners and therefore in extraordinary situation in hand, which is unprecedented in nature, the respondent No.-3 and 4 cannot proceed against the petitioners till the petitioners get an opportunity to avail the appropriate statutory remedy before the Presiding Officer, DRT at Patna upon non availability of the learned Presiding Officer.”

Learned counsel for the petitioners seek permission to withdraw this petition.

Prayer is allowed.

This application is disposed of as withdrawn.

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

**(Sanjay Karol, CJ)**

**(S. Kumar, J)**

ranjan/-

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| CAV DATE          | NA   |
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| Transmission Date | NA   |