

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2079 of 2022

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Kunal Kishore Son of Yugal Kishore Narayan Resident of Village Kerma,
P.O. Kerma, P.S. Kudhani, District Muzaffarpur (Proprietor of M/s Shree Shai
Automobiles, Kerma Chowk, Muzaffarpur

... .. Petitioner/s

Versus

1. The Bank of India having its Head Office at Star House C-5 G Block,
Bandra- Kurla- Complex Bandar (East), Mumbai- 400051 represented
through the Chairman-cum-Managing Director.
2. The State of Bihar through District Magistrate, Muzaffarpur.
3. The Zonal Manager, Bank of India, Muzaffarpur Yamuna Market,
Mithanpura, Muz- 842001.
4. Asharfi Paswan (Chief Manager), Bank of India, Muzaffarpur Zonal Office
at Yamuna Market, Mithanpura, Muz- 842001 and Permanent Add- M.I.G.-
A/15, Near City Center Housing Colony, Dhanbad, Jharkhand- 826001.
5. The Branch Manager, Bank of India, Kerma Branch, Muzaffarpur.
6. Manoj Kumar Singh S/o Chet Narayan Singh R/o Jhili Urf Salimpur Husain,
Ps- Kudhani, Muzaffarpur- 844127.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar, Advocate
For the Respondent Nos	:	Mr. Nishi Nath Ojha, Advocate
1, 3, 4 and 5		
For the Respondent No.2:		Mr. Sarvesh Kumar (GP 24)
		Mr. Manoj Kumar, AC to GP 24

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-11-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“a. For issuance of an appropriate writ in the
nature of mandamus commanding the
respondents to allow the petitioner to pay all his
dues of the Respondent Bank and to redeem his
mortgaged property under section 13(8) of



SARFAESI Act as tendered by the petitioner on 06.04.2021 and 26.07.2021 before Ld. PO. DRT, Patna which is Annexure - 7 before execution of sale deed dated 22- Sep-2021 by the Respondent Bank.

b. For issuance of an appropriate writ in the nature of mandamus commanding the respondents to de-seal the mortgaged property and grant possession to the petitioner as possession was taken without any prior notice to the petitioner or to the tenants who were runnings shops in the mortgaged property since 2015.

c. For issuance of an appropriate writ in the nature of Certiorari for quashing e-auction dated 09.09.2020 and sale deed dated 22-Sep-2021 which contained in Annexure- 9 having token number 19334 Deed no 19314 serial number 19108 executed by Asharfi Paswan (ChiefManager), Bank of India Bank of India in favour of Manoj Kumar Singh without any notice to the petitioner.

d. For issuance of a direction for grant compensation of Rupees Ten Lacks for destroying shops articles and illegally taking over possession, without any notice, of the Mortgaged property.

e. For declarations that all the actions initiated



by the respondent bank with respect to the subject property as null and void;

f. Pass any other or further order as this Hon'ble Court may deem fit and proper in the interest of justice.”

It is not in dispute that proceedings, subject matter of the writ petition, are now also pending before the Debt Recovery Tribunal, Patna, constituted under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

As such, learned counsel for the petitioner seeks permission to withdraw the present petition reserving liberty to pursue the matter before another forum, including the issue, subject matter of the present petition.

Liberty as prayed for is granted.

We only hope and expect that the proceedings before the Debt Recovery Tribunal, Patna would be completed expeditiously, within a period of four weeks.

All issues raised in the present petition, including that of (a) collusion; under valuation and *mala fides*, are left open to be adjudicated by the competent authority.

The instant petition stands disposed of as withdrawn in



the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Spd/-PKP

AFR/NAFR	
CAV DATE	
Uploading Date	13.11.2022
Transmission Date	

