

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3880 of 2022

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Bhola Prasad, Son of Late Badan Prasad, Resident of Village -
Jogiyar/Janerwa, P.S. - Govindganj, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Collector Cum District Magistrate, East Champaran, Motihari.
3. The Superintendent of Police, East Champaran, Motihari.
4. The Sub-Divisional Officer, Areraj, District - East Champaran, Motihari.
5. That Sub-Divisional Police Officer, Areraj, District - East Champaran, Motihari.
6. The Central Bank of India through its managing director cum Chief executive Officer, Head Office Chandermukhi, Nariman Point, Mumbai - 400021.
7. The Zonal Manager, Central Bank of India, 2nd Floor, Block - B, Mauryalok, Complex, Duk Bunglow Road, District - Patna.
8. The Branch Manager, Central Bank of India, Radhia Branch, Areraj, District - East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dhurendra Kumar, Advocate
For the State	:	Mr. Manoj Kumar, AC to GP-4
For the Respondent/s	:	Mr. Prabhakar Jha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-03-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

- i) For issuance of an appropriate writ/s order/s quashing the exparte order dated 27.01.2022 passed by Ld. Collector cum District Magistrate, East Champaran, Motihari in Sarfaesi Act Case No. 5/2018 by which the Ld. Collector cum District Magistrate, East Champaran, Motihari, has ordered for taking delivery of possession of the petitioner's land bearing Khata No. 139, 161, Plot No. 1087, 1088, area 1 K 12 dhurs situated at Mauza Jogiyar/Janerwa, P.S. Govindganj, District- East Champaran on which it is the

only residential house of the petitioner in which he is residing with his family members.

ii) For issuance of a writ in the nature of mandamus, stay the operation of the order dated 27.01.2022 passed in Sarfaesi Act Case No. 5/2018 and recalculate the loan amount at the rate of reasonable interest and divide the balance amount into installment so the petitioner may be able to pay the balance amount of loan within reasonable period.

iii) For issuance of an any other relief(s) for which the petitioner is found to entitled in the facts and circumstances of the case.”

We are entertaining the present petition in view of the fact that at this point in time, the Debt Recovery Tribunal is not functional on account of non-appointment of Presiding Officer.

Petitioner has filed supplementary affidavit dated 22.03.2022, paragraph 2 whereof reads as under:-

2.That it is important to mention here that Respondent No. 8 sent a letter dated 17.02.2022 along with the copy of the Ex-parte order dated 27.01.2022 passed by Ld. Collector-cum-District Magistrate, East Champaran, Motihari in Sarfaesi Act Case No. 5/18 for taking delivery of possession of the Petitioner's land bearing Khata No. 139, 161, Plot No. 1087, 1088, Area 1 Katha 2 dhurs situated at Mauza Jogiyar/Janerwa P.S. Govindganj, District- East Champaran on 08.03.2022 and the petitioner deposited Rs. 7,00,000 (Seven Lakhs in the Bank Account of Central Bank and for the rest of amount of Rs. 7,00,000 (Seven Lakhs) an undertaking was taken by the Bank for depositing the same till 31.03.2022 and again under undue pressure, undertaking was taken on non-judicial e-stamp paper by the bank for depositing the rest amount of Rs.

6,50,000/- (Six Lakhs Fifty Thousand)
till 25.03.2022.

Petitioner’s undertaking is accepted to the effect that he shall deposit the outstanding amount of Rs. 6,50,000/- (Six Lacs Fifty Thousand) on or before 30th of April, 2022.

Needless to add, the component of interest up to the date of payment shall also be paid by the petitioner.

Till 30th of April, 2022, no coercive steps shall be taken against the petitioner.

Petitioner has been explained the consequences of breach of undertaking by the learned counsel appearing on his behalf.

This writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	