

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5029 of 2022

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Rajeev Agrawal, S/o Late Shri Krishna Gopal Agrawal, Resident of Santosh Mansion, Kamla Singh Lane, Vishnu Place Lane, East Boring Canal Road, P.S. SK Puri, Patna - 800 001, presently residing at 9, Clarke Way, Kenthurst, New South Wales, Australia - 2156

... .. Petitioner/s

Versus

1. LIC Housing Finance Ltd., a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at 2nd Floor, Bombay Life Building, 45/47, Veer Nariman Road, Fort, Mumbai 400001 and local office at Jeevan Prakash Building, Fraser Road, Patna - 800001, through its Managing Director.
2. The Branch Manager, LIC Housing Finance Ltd., Jeevan Prakash, 8th Floor, BSFC Building, Frazer Road, PS Gandhi Maidan, Patna - 800 001.
3. The Authorised Officer, LIC Housing Finance Ltd., Jeevan Prakash, 8th Floor BSFC Building, Frazer Road, P.S. Gandhi Maidan, Patna - 800 001.
4. Mr. Sanjeev Agrawal, S/o Late Krishna Gopal Agrawal, Residing at Santosh Mansion, Kamla Singh Lane, Vishnu Place Lane, East Boring Canal Road, PS SK Puri, Patna - 800 001.
5. Mrs. Santosh Agrawal, W/o Late Krishna Gopal Agrawal, Residing at Santosh Mansion, Kamla Singh Lane, Vishnu Place Lane, East Boring Canal Road, PS SK Puri, Patna - 800 001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Nikhil Kumar Agrawal, Advocate
For the Respondent/s	:	Mr.Lakshman Lal Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-05-2022

Petitioner has prayed for the following relief(s):

“i) To issue an appropriate writ/order/direction inn the nature of certiorari quashing the demand notice dated 08.02.2021 (Annexure-4) issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002



(hereinafter to be referred as the SARFAESI Act' for brevity) and the possession notice dated 07.02.2022 (Anx.-5) issued under Section 13(4) of the SARFAESI Act as the same have been issued in respect of property which has allegedly been mortgaged without the express consent or no-objection from the Petitioner;

ii) To issue an appropriate writ/order/direction in the nature of Mandamus declaring that the said demand notice dated 08.02.2021 and possession notice dated 07.02.2022 are null and void in view of the law propounded by the Hon'ble Supreme Court in Olini Fernandes vs. Goa State Co-Operative Bank Ltd. Reported in (2016) 13 SCC 298;

iii) To issue an appropriate writ/order/direction in the nature of mandamus commanding the Respondent Company not to give effect to the said demand notice dated 08.02.2021 and possession notice dated 07.02.2022 till the criminal liability is decided in CC(P) No. 3916/2022 pending before the Learned Magistrate, Patna

iv) To any other relief or reliefs for which the Petitioners are found entitled to in the facts and circumstances of the case .”

In view of the fact that Debts Recovery Tribunal is now functional, learned counsel for the petitioner, under instructions, seeks permission to withdraw the present petition with liberty to take recourse to such other appropriate remedies, as are otherwise available, in accordance with law.

Permission granted.

As and when any such request is made by the petitioner before the Tribunal, the same shall be considered and



decided expeditiously.

The petition stands disposed of as withdrawn
with the liberty aforesaid.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	18.05.2022
Transmission Date	

