

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5562 of 2022

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Satyajeet Krishna, Son of Sri Binod Kumar, Resident of Dr. A.K.N. Sinha Path, near IMA Hall, Post Office - Bankipore, Police Station - Gandhi Maidan, District - Patna.

... .. Petitioner/s

Versus

1. The Indian Bank (Allahabad Bank), through its Zonal Manager, Dak Bunglow Road, Near Tara Mandal, Police Station - Kotwali, District - Patna.
2. The Zonal Manager, Indian Bank (Allahabad Bank), Dak Bunglow Road, Near Tara Mandal, Police Station - Kotwali, District - Patna.
3. The Authorized Officer, Stressed Asset Management Branch, Indian Bank (Allahabad Bank), Near Pole No. 12, Khajpura, Patna.
4. Mrs. Pummy Singh, Wife of Sri Raju Kumar, Resident of Pethia Bazar, Phulwari Sharif, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gyanendra Kumar Singh, Advocate
For the Respondent/s : Mr. Ranjan Ghoshrave, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-08-2022

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

1. That the petitioner craves indulgence of the Hon'ble Court for issuance of the appropriate writ(s)/Direction(s)/Order(s) to the respondents commanding them not to evict the petitioner with immediate effect from his shop No. LB-02 situated on the Lower ground Floor (Basement) Dumraon Place,



Frazer Road, Patna which, is the only source of livelihood to him and his family members in the garb of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 hereinafter read as SARFAESI Act because the aforesaid shop was mortgaged by the respondent No. 4 to the respondent Bank as one of the Partner of the Quality Industries, a partnership firm, and after becoming non-performing assets (NPA) in the year 2018 and after performing all the formalities of the SARFAESI Act to the respondent No. 4 by the respondent Bank, sold the aforesaid shop through auction on 23.02.2022 without giving any information at any time to the petitioner by the respondent Bank or the respondent No.- 4 and further commanding the respondent Bank not to evict the petitioner from his above said shop without following the provisions of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982, for which the petitioner is entitled to.

Shri Rajendra Narayan, learned Senior Counsel for the petitioner, refers to and relies upon a decision rendered by Hon'ble the Apex Court in **Vishal N.Kalsaria vs. Bank of India and Others; (2016) 3 SCC 762** whereas, on the other hand, learned counsel for the respondents refers to and relies



upon a decision rendered by Hon'ble the Apex Court in **Bajarang Shyamsunder Agarwal vs. Central Bank of India & Another; (2019)9SCC94.**

Having heard learned counsel for the parties, we are of the considered view that it would be only prudent for the petitioner to first approach the Tribunal under the provision of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, an authority, which can examine the factual matrix based upon the pleadings and materials placed on record by the respective parties.

At this stage, we are informed that the possession of the shop (tenanted) already stands taken over by the respondent-Bank.

Shri Ranjan Ghoshrahe states that the respondent-Bank shall not precipitate the action leaving liberty to the petitioner to approach the Tribunal within a period of two weeks and move an application.

Liberty reserved to the petitioner to move an application for desealing the premises.

Needless to add, it shall be so done strictly in accordance with law, for we have left all questions of fact and law to be adjudicated by the appropriate authority.



Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	11.08.2022
Transmission Date	

