

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6133 of 2022

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The State Bank of India through the Authorised Officer namely, Vishwa Vijay Shrivastava, aged about 53 years, Male, Stressed Assets Recovery Branch (SARB), 2nd Floor, Patna Main Branch Building, Gandhi Maidan (West), Patna. Pin- 800001.

... .. Petitioner/s

Versus

1. The Authorised Officer, UCO Bank, Regional Office Begusarai Traffic Chowk, Begusarai, PIN- 851101.
2. The Regional Manager, UCO Bank, Regional Office Begusarai, Traffic Chowk, Begusarai, Pin- 851101.
3. Vishwajeet Kumar S/o Late Baidyanath Prasad R/o Mohanpur, Samastipur, Pin- 848101.
4. The District Magistrate, Samastipur, Office of the District Magistrate, Samastipur.
5. Prince Kumar Sinha (Auction Purchaser) S/o Sri Kamlesh Kumar Sinha R/o Ward No.12, Village- Mohanpur, Samastipur.
6. The State of Bihar through Chief Secretary, Government of Bihar.
7. Principal Secretary, Finance Department, Government of Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Singh Thakur, Advocate
For the State	:	Mr. Sarvesh Kumar, GP-24
For the UCO Bank	:	Mr. Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 01-11-2022 Petitioner has prayed for the following relief(s):-

i) For issuance of a writ in the nature of mandamus or any other appropriate writ or order or direction, commanding the Respondent Authority no. 1 to leave the actual physical possession in favour of the Writ Petitioner, as they have wrongly taken the possession of the mortgaged property of the Writ Petitioner and the property mortgaged to the Respondent No.1 and 2 is behind the property mortgaged to the



Writ Petitioner.

ii) For the issuance of a writ in the nature of quo warranto or any other appropriate writ or order or direction, commanding the Respondent Authority no. 1 to leave the actual physical possession in favour of the Writ Petitioner because the Possession of the property taken by the Respondent No.1 is of the Petitioner and although valid objection was raised by the Writ Petitioner vide letter dated 01/11/2021 along with map but the same was casually responded vide Reply dated 15/12/2021 without dealing with the raised objections and the same amount to acceptance of the raised objection by the Petitioner.

(iii) For the issuance of a writ in the nature of mandamus or any other appropriate writ or order or direction, commanding the Respondent Authority no. I to deposit the amount to be realized from scheduled E-Auction dated 25/03/2022 with the DRT. Patna in S.A. No 66/2022 and to decide the actual dispute before releasing the auction money in favour of the lawful and valid mortgagee as per the boundary of the mortgaged property.

iv) For directing the Ld. Debts Recovery Tribunal, Patna to decide the issue in dispute between the Petitioner and the Respondent No.1 and 2 in the pending S.A. No.66/2022 filed by the Petitioner because both the Institutions are Government of India body and therefore, amicable resolution is what the settled principle prescribe in the instant circumstances.

(v) For directing the respondent no. 4 to hear the application filed under section 14 of SARFAESI Act in compliance of principle of natural justice because when Application of Petitioner and Respondent No.1 both were



pending then before delivering the physical possession to the Respondent No.1 both the Applicants should have been heard. The petitioner bank must be given an opportunity to make submission before the Court of District Magistrate, Samastipur, before final adjudication of the contentious issue.

vi) To direct the respondent no. 6 to give direction to all District Magistrate within the State of Bihar to decide the matter filed under section 14 of the SARFAESI Act at the earliest and not to keep pending for a longer period, which is not in the interest of recovery of public money from the willful defaulter/s.

vii) For any other relief(s) to which the Petitioner may be found entitled for recovering the public money from the Respondent No.3 secured assets.

Learned counsel for the petitioner seeks permission to withdraw the present petition.

Permission granted.

The petition stands disposed of as withdrawn.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Avinash/Ashwini

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