

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11789 of 2021

1. M/s Gupta Traders through its Proprietor Chunnu Kumar Gupta Resident of Village - Trigun Dihri, Dhantoliya Kali Asthan, Ward No. - 10 (New - 26), P.O. and P.S. - Dehri on Sone, Town and Distt.- Rohtas.
2. Chunnu Kumr Gupta S/o Krishna Sah Resident of Village - Trigun Dihri, Dhantoliya Kali Asthan, Ward No. - 10 (New - 26), P.O. and P.S. - Dehri on Sone, Town and Distt.- Rohtas.
3. Devanti Devi W/o - Krishna Sah Resident of Village - Trigun Dihri, Dhantoliya Kali Asthan, Ward No. - 10 (New - 26), P.O. and P.S. - Dehri on Sone, Town and Distt.- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Rohtas (Sasaram).
3. The Authorized Officer, Punjab National Bank, Circle Office, Aurangabad branch, Maharajganj Road, Distt.- Aurangabad.
4. The Branch Manager, Punjab National Bank, Branch Office Dalmianagar at Dalmianagar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Alok Ranjan, Advocte
For the Respondent/s : Smt. Anuradha Singh, GP-21

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

2 10-01-2022 Petitioners have prayed for the following relief(s):

“(i). For a direction upon the Bank, restraining it from taking physical possession of the only residential house of the petitioners on the strength of ex-parte order, passed by District



Magistrate, Rohtas at Sasaram (Respondent No. 2) in an application under Section 14 of the SARFAESI Act filed by the Bank.

(ii). For issuance of direction upon Respondent No. 2, to recall his order passed in application under Section 14 filed by the Bank and grant an opportunity to the petitioners by issuing him a notice, and hear him on the factual aspects of the case.

(iii). For holding that the alleged order has not delivered to the petitioners but communicated to him by a letter no. 36 dated 12.02.2021 has been passed in the teeth of the judgment passed by Hon'ble Allahabad High Court in the case of ***Kumkum Tentiwal versus State of U.P. and others*** and affirmed by Hon'ble Apex Court in SLP (C) No. 8191 of 2019 whereby and whereunder it has been made mandatory for the District Magistrate to follow the principles of Natural Justice before issuing any order prejudicial to the interest of the Borrowers.

(iv). For holding that under Section 17(1) of SARFAESI Act, unless and until DRT, where the SARFAESI Application No. 140 of 2020 and 13 of 2019 filed by petitioners are pending, declares the recourse taken by secured creditor under Section 13(4) of the Act to be in accordance with the provisions of this Act and the Rules made thereunder, the secured creditor shall not be entitled to take recourse to one or more of the measures specified under Section 13(4) of the Act to recover his secured debt.

(v). For any other relief/reliefs, the petitioners may be found entitled in the facts and circumstances of the present case;

And in the interim

The petitioners prays for direction upon Bank prohibiting it from taking physical possession of the property, based on the ex-parte order, which is in teeth of various judgments or Hon'ble Apex Court and High Court.”

Learned counsel for the petitioner states that a petition is already pending before the Debt Recovery Tribunal.



As such, we are not inclined to entertain the present petition.

Petition is dismissed.

However, liberty is reserved to the petitioner to take recourse to such other alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-DKS

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