

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18802 of 2021

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J.M. Institute of Speech and Hearing Manria Chajjan, Turki, District Muzaffarpur, through its Secretary, Sumanyu Bhardwaj, Male, aged about 31 years, Son of Dr. Manoj Kumar, resident of Road No. 5, Indrapuri, P.S. Patliputra, District Patna.

... .. Petitioner/s

Versus

1. Indian Bank through its Authorized Officer, SAMB Branch, Patna
2. The Authorized Officer, Indian Bank, SAMB Branch, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nilanjan Chatterjee, Advocate
		Mr. Sahil Kumar, Advocate
For the Respondent/s	:	Mr. Rajan Ghoshrahe, Advocate

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

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-08-2022

The petitioner has prayed for the following relief/s :-

- i. Issuance of a direction, order or writ, including writ in the nature of certiorari to quash and cancel the initiation of proceeding under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFESI Act') since the proceeding is not maintainable in view of the bar contained in section 31(i) of the SARFESI Act, 2002.



- ii. Issuance of a direction, order or writ, including writ in the nature of certiorari to quash and cancel the notice of intended sale dated 09.10.2021 since in the notice the due amount stated is wrong and the notice is also in violation of mandatory procedure prescribed under the Security Interest (Enforcement) Rules, 2002 [hereinafter referred to as 'The Rules'].
- iii. Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the respondents to get the entire mortgage properties valued and release the land of the petitioner which is in excess of the total outstanding loan amount.
- iv. Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the respondents to consider and provide the petitioner six months time to pay the entire dues since the petitioner has already deposited more than 50% of the due amount and shall deposit the rest amount within a period of six months.
- v. Any other relief/reliefs for which the petitioner is found entitled to on the facts and in the circumstances in the instant case.
- vi. During the pendency of the instant writ application the respondents may be restrained from taking any coercive action in pursuance of the proceeding initiated under SARFESI Act.

After the matter was heard for some time, finding the Court not in favour of the submissions made by the



learned counsel for the petitioner, learned counsel for the petitioner, under instructions, states that the petitioner shall be content if the petitioner is permitted to withdraw the present petition, with liberty to initiate appropriate proceedings before the appropriate forum and to take recourse to such other alternate remedies which are equally efficacious in law.

Learned counsel for the respondents states that if such proceeding is initiated by the petitioner within a period of four weeks from today, issue of limitation shall not be allowed to come in the way of its consideration on merits.

Statement accepted and taken on record.

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

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	06.08.2022
Transmission Date	

