

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19341 of 2021

1. M/s. Kamdheunu Saw Mill and Furniture through proprietor Harideo Sharma, son of Late Laxmi Sharma @ Lakshmi Sharma, Mohallah, Block road Laxmipur, Post Office and Police Station- Rosera, District- Samatipur, PIN Code No. 848210, Bihar.
2. Harideo Sharma @ Hareedeo Sharma @ Haridev son of Lakshmi Sharma @ Laxmi Sharma Aadhar No. 921920791616, proprietor M/s. Kamdhenu Saw Mill and Furniture, Mohallah- Block Road Laxmipur, Post Office and Police Station- Rosera, District- Samatipur.

... .. Petitioner/s

Versus

1. The Union of India through Finance Secretary Department of Financial Services North Block, Cabinet Secretariat, Raisina Hill, New Delhi.
2. The Deputy Governors, Reserve Bank of India, Shahid Bhagat Singh Marg, Mumbai- 400001.
3. The Executive Director, Board for Regulation and Supervision of Payment and Settlement Systems (BPSS) Reserve Bank of India, Shahid Bhagat Singh Marg, Mumbai- 400001.
4. The Regional Director, Reserve Bank of India, South Gandhi Maidan, Patna- 800001.
5. The Banking Ombudsman, Reserve Bank of India Office of the Banking Ombudsman South Gandhi Maidan, Patna- 800001.
6. The CGM-in- Charge and Secretary Secretary s Department Reserve Bank of India 16th Floor, Central Office, Building Sahid Bhagat Singh Marg, Mumbai- 400001.
7. The State of Bihar through the Principal Secretary, Finance Department, Old Secretariat, Patna, Bihar.
8. The Chairman, State Bank of India a body Corporate constituted under the State Bank of India Act 1955, Having its Corporate Office, State Bank Bhawan, Madam Cama Road, Nariman Point, Mumbai, Maharashtra, 400021.
9. The Managing Director (Retail and Digital), Banking/ R and DB, Having its Corporate Office, State Bank Bhawan, Madam Cama Road, Nariman Point, Mumbai, Maharashtra, 400021.
10. The Managing Director (Namely Mr. Swaminathan J). Risk, Compliance, Stresses Assets, Resolution Group (R,C and SARG), Having its Corporate Office, State Bank Bhawan, Madam Cama Road, Nariman Point, Mumbai, Maharashtra, 400021.
11. The Chief General Manager CGM, (Namely Mr. Kshitij Mohan) Credit Review Department- II CC, Mumbai, Having its Corporate Office, State Bank Bhawan, Madam Cama Road, Nariman Point, Mumbai, Maharashtra, 400021.
12. The Chief General Manager, State Bank of India, Local Head Office, West Gandhi Maidan, Patna, PIN- 800001.



13. The Central Registry of Securitization Asset Reconstruction and Security Interest of India 5th Floor MTNL Telephone Ex-change Buildings, 8, Bhikaji Cama Place, New Delhi, 110066.
14. The Chairman, State Level Bankers Committee SLBC Department, State Bank of India, Local Head Office, 5th Floor, West Gandhi Maidan, Patna (Bihar), 800001.
15. The Authorized Officer, State Bank of India, Stressed Assets Recovery Brand, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No 13, Advocate
Mr. Rohit Kumar, Advocate
For the Respondent/s : Dr. Krishna Nandan Singh, ASG
Mr. Sanjiv Kumar, Advocate
Mr. Raghwendra Kumar, SC-22
Mr. Santosh Kumar Singh, Advocate
Mr. Ram Anurag Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-06-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

(i) A certiorari setting aside the notice of 13(2) of securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (hereinafter called "Act") dated 05.06.2021 ^(ANNEXURE-1) of Asset Backed Loan Drop Line Overdraft Loan Account No. 34855028432 as well as Term Loan (Funded Interest Term Loan) Account No. 39605651936 of State Bank of India through its Rosera Branch Samastipur Bihar contained in



Annexure-1 whereby where under the respondent Authorities (State Bank of India & officials) demand to repay to the Bank aforesaid loan with further interest and incidental expenses, costs as stated in terms of notice under section 13(2) of the securitization and Reconstruction of Financial Assets and enforcement of Security Interest Act 2002 the respondent Bank Authorities will Exercise all or any of the rights detailed under Sub-section (4) of section 13 and under other applicable provisions of the said Act. However petitioner repays the sum of major part of said loan amount till the filing of this case.

(ii) A certiorari setting aside the possession notice (Annexure-2) under Rule 8(1) security Interest (Enforcement) Rules 2002 by which the respondent Bank authorities has taken possession of the property



which had been mortgage in exercise of power conferred under section 13(4) of the securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002. Whereby where under the respondent Bank authorities not follow the mandate Act as well as rules i.e. The securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002. The Recovery of Debts and Bankruptcy Act 1993 and also not follows the Finance Act, 2017.

(iii) A certiorari setting aside the entire proceeding of original Application No. 193 of 2021 pending before learned Debts Recovery Tribunal, Patna whereby and where under by the order dated 07.08.2021 passed in case No. OA/193/2021 petitioner including Guarantor has summoned under Sub-Section (4) of section 19 of the Securitization and reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with Sub-



rule (2A) of rules 5 of the Debt Recovery Tribunal (Procedure) Rules 1993. However the learned Debts Recovery Tribunal had been mechanically and Arbitrary issued the summons.

(iv) Any other writ/writs for granting any other relief/ reliefs for which the petitioners are found entitled to in the facts and circumstances of the present case.

Learned counsel for the respondent State Bank of India states that the present petition has become infructuous, inasmuch as parties have amicably resolved their dispute and the account stands closed.

Statement accepted and taken on record.

The present petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand



disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	04.07.2022
Transmission Date	

