

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21249 of 2021

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Nand Kishore Kumar Gupta Son of Late Suraj Prasad Proprietor of Shiv Shankar Kirana Ghar, Gandhi Chowk, Chapra, Saran. Resident of Mohalla - Bara Telpa, P.S. Chapra Town, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The Authorized Officer/ The Chief Manager, Bank of India, Zonal Office, Yamuna Complex, Mithanpura Chowk, Muzaffarpur.
2. The Branch Manager, Bank of India, Chapra Branch, Salempur, Saran at Chapra, PIN - 841301.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Alok Ranjan, Adv
For the Respondent no. 1 & 2 : Mr.Nishi Nath Ojha, Adv

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-02-2022

Heard learned counsel for the parties.

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

“(i) For issuance of writ/order restraining Respondent no. 1 and 2 from executing and taking any action in furtherance of sale notice dated 24.11.2021(Annexure-P/2 of the writ petition) whereby and whereunder the residential house of the petitioner and also agricultural land, have been put on E- auction Sale scheduled on 30.12.2021 during pendency of the SARFAESI Application bearing No. 58 of 2021 filed by the petitioner under Section 17 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to, in short as “SARFAESI Act, 2002”) before the Debts Recovery Tribunal, Patna.

(ii) For further holding and declaring that the respondent No. 1 and 2 cannot proceed against the petitioner till the SARFAESI Application No. 58 of 2021 filed by the petitioner under Section 17 of the SARFAESI

Act, 2002 is pending before Debts Recovery Tribunal (hereinafter referred to, in short as 'DRT') and the same is heard and disposed of in accordance with law.

(iii) For further holding and declaring that Right to Remedy is one of the constitutional rights of the petitioner and therefore in extra ordinary situation in hand, which is unprecedented in nature, the respondent No. 1 and 2 cannot proceed against the petitioner till the petitioner gets an opportunity to avail the appropriate statutory remedy before the Presiding Officer, DRT at Patna upon availability of the learned Presiding Officer.”

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

Prayer is allowed.

This application is disposed of as withdrawn.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA