

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6169 of 2023

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1. Mukesh Kumar Singh S/o Ram Srestha Singh, Resident of Sariyachak Mustafa @ Sipahpur, P.S. Ahiyapur, District Muzaffarpur.
 2. Vineeta Yadav, W/o Mukesh Kumar Singh, Resident of Sariyachak Mustafa @ Sipahpur, P.S. Ahiyapur, District Muzaffarpur.

... .. Petitioners

Versus

1. The State of Bihar Bihar.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Collector cum District Magistrate Muzaffarpur.
4. The Branch Manager Indian Bank (Erst while Allahabad Bank) Main Branch, Muzaffarpur.
5. The Authorized Officer Indian Bank (Erstwhile Allahabad Bank), Main Branch, Muzaffarpur.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Dr. Satyendra Kumar Srivastava, Advocate
For the Respondent/s	:	Mr.Anil Kumar Singh (GP 26)
For the Bank	:	Mr.Daya Nand Singh, Advocate Mr.Nagdeo Choubey, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 01-05-2023 Heard learned counsel for the petitioners, learned
counsel for the State and learned counsel for the Bank.

Petitioners, in the present case, are seeking the
following reliefs:-

“(1) For Issuance of any appropriate writ in the nature of certiorari for quashing the order dated 18.03.2023 passed in Case No. 55/ SARFAESI / 2021-22 named and styled as Indian Bank Vs. Mukesh Kumar Singh and others, whereby and where under respondent Collector Cum Magistrate has been pleased to pass an order under Section 14 of SARFAESI Act 2002 and has been pleased to fix the date of taking possession of residential house of petitioner on 02.05.2023.
And further pleased to depute Revenue Officer



Musahari Muzaffarpur as Magistrate with direction that on the above fixed date he will hand over the possession of the mortgage property to the person authorized by the Bank.

It has further been pleaded to request S.S.P. Muzaffarpur to provide police forces to the bank as per request /demand.

It reflex from the order itself that above order has been passed without issuance of notice to the petitioners though they were necessary party and order impugned has been passed only on the basis of direction issued by the Chief Secretary government of Bihar Contained in his letter No. 1616 / Misc. Dated 01.02.2022 for which respondent neccessary had no jurisdictional moreover the letter of respondent Secretary was never received by the petitioners.

(ii) Further for the respondent Bank to fixed a suitable installment so that petitioner could deposit the loan amount with interest because they could not deposit the loan of respondent Bank only due to prevailing situation of pandemic Corona - 19.

(iii) Further for issuance of any other writ/ writs order/ orders direction/ directions for which petitioner shall be found entitled Under the facts and circumstances of the case in principle of equitable justice.”

The only plea which has been taken on behalf of the petitioners is that the petitioners are ready to deposit the loan amount with interest in suitable installment.

This case arises out of an action taken by the respondent Bank under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the “SARFAESI Act, 2002”). The orders passed under the SARFAESI Act, 2002 have attained finality. By the impugned order the District



Magistrate, Muzaffarpur has deputed the Revenue Officer, Musahari, Muzaffarpur as Magistrate with direction that on the date fixed in the order he will hand-over the possession of the mentioned property to the person authorized by the Bank.

In view of the Hon’ble Supreme Court judgment in the case of **Union Bank of India Vs. Satyawati Tondon reported in (2010) 8 SCC 110** and the recent judgment in the case of **M/s South Indian Bank Ltd. & Ors. Vs. Naveen Mathew Philip & Anr. Etc. Etc. [2023 Live Law (SC) 320]**; this Court sitting under Article 226 of the Constitution would not interfere with the order of the Collector-cum-District Magistrate, Muzaffarpur passed under Section 14 of the SARFAESI Act, 2002.

This Writ Application has no merit. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J.)

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