

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.327 of 2022

The State Bank of India through Tanbir Kumar S/o Late Prabhu Singh Chief Manager-cum- Authorised Officer, Stressed Assets Recovery Branch (SARB), 2nd Floor, Patna Main Branch Building, Gandhi Maidan (West) Patna, Pin no.- 800001.

... .. Petitioner/s

Versus

1. Manoj Kumar Chandel S/o Late Krishnanand Singh R/o- Station Road, Near Ram Line Hotel, Satgama, Jamui and Lali Bhawan Compound Nehru Nagar, Patliputra Colony, Patna- 800013.
2. Shweta Singh W/o Shri Manoj Kumar Chandel R/o- Station Road, Near Ram Line Hotel, Satgama, Jamui and Lali Bhawan Compound Nehru Nagar, Patliputra Colony, Patna- 800013.
3. Jay Nandan Singh S/o Late Bheshdhari Singh, R/o village Itasagar, Post- Malepur, District- Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sanjay Singh Thakur
For the Respondent/s	:	Mr. P.N. Shahi, Sr. Advocate
		Mr. Prabhat Ranjan Singh
		Mr.Yash Mathur

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

14 18-09-2023 Heard the parties.

2. The present application has been filed for setting the order dated 29.03.2022 passed by the Sub-Judge-I, Jamui by which all the parties of the Title Suit No. 100/2022 have been restrained from e-auction and sale and purchase of disputed land by maintaining *status quo*.

3. It has been submitted by learned counsel for Bank that the suit is not maintainable and if the borrower-respondents have grievance, they can approach the Debt Recovery Tribunal



under Section 17(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act). They have chosen a wrong forum and the order impugned has been passed by a Court which has no jurisdiction over the suit property and any order passed by a Court having no jurisdiction over the suit property is no order in the eye of law.

4. Mr. Sanjay Kumar, learned counsel for Bank, has also relied upon various judgments of the Supreme Court in support of his contentions.

5. Mr. P.N. Shahi, learned Senior Counsel, assisted by Mr. Prabhat Ranjan Singh, learned counsel and Mr. Yash Mathur learned counsel, appearing on behalf of the Respondents, has submitted that the suit is maintainable in the Civil Court in the light of the judgment of the Supreme Court passed in the case of **Mardia Chemicals Ltd. & Ors. Vs. Union of India & Anr** reported in **(2004) 4 S.C.C. 311**. He further submits that an application under Order 7 Rule 11 of the Code of Civil Procedure has been filed by the Bank in the Court below and the same is pending. The contentions of the Bank on jurisdiction can be considered by the Court below and, thereafter, the petitioner may proceed in the matter of injunction if the order



goes against the Bank.

6. I have considered the submissions of the parties.

7. I am of the opinion that the objection of the Bank on jurisdiction shall have to be decided first and, thereafter, the question of deciding the injunction matter will arise.

8. The Sub-Judge-I, Jamui, is directed to consider the application filed under Order 7 Rule 11 within a month of communication of the present order in the Court below after hearing both the parties.

9. The order dated 29.03.2022 directing all the parties to maintain *status quo* and restraining them from e-auction and sale and purchase of disputed land shall continue and shall abide by the order of the Sub-Judge, Jamui, passed on the petition under Order 7 Rule-11 of the Code of Civil Procedure.

10. This application is, accordingly, disposed of.

(Sandeep Kumar, J)

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