

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17417 of 2022

Deokant Kumar S/O Harendra Sharma Resident of Village- Sahpur, near birla School, P.S.- Ram Krishna Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar.
2. The District Magistrate-cum-Collector, Patna.
3. The District Nilam Patra Officer, Patna.
4. The Additional Collector-cum-Senior Officer, Nilam Patra Office, Patna.
5. The Sub-Divisional Officer, Patna Sadar, Patna.
6. The Circle Officer, Sampatchak, Patna.
7. The Authorised Officer and Chief Manager (on Behalf of Kankarbagh Branch) Union Bank of India having its regional office 2, first floor, Aditya Arcade, exhibition Road, Patna.
8. The Chief Manager Union Bank of India (e-Andhra Bank) having regional office, Nesheman Bhawan, 1st floor, Mazharool haque Path, Frazer Road, Patna.
9. The Chief Manager- Cum- Authorised Officer, Andhra Bank, Kankarbagh Branch, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar, Advocate
For the Respondent nos. 1 to 6: Smt Anuradha Singh, SC21
Ms. Bandana Singh, Advocate
For the respondent nos. 7 to 9: Mr. Nishi Nath Jha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-01-2023

Heard learned counsel for the parties.

Petitioner has prayed for following relief (s):-

“i. For issuance of writ/s, order/s, direction/s in the nature of certiorari for quashed /set aside therein prayed letter No. 3716 dated 22.10.2022 issued by SDO (Sub-Divisional Officer) Sadar,



Patna whereby and where under date has been on 03.11.2022 for taking physical possession of secured assets in the immovable property described in the said notice in Column no 01 and the description of mortgage property residential land and building (in area measuring 600 Sq. ft. equal to 1.3776 decimal) land belonging to the petitioner Deokant Kumar which is situated at Thana No -111, Thana Code 163, Tazi- 28, Khata- 43, Survey Plot No 826(P) situated at Mauza Shekhpura, P.S- Phulwari sarif, Now P.S- Ram Krishna Nagar, District- Patna by which requested letter has been issued to the concerning respondents, so that to participate during the assistance in taking of physical possession.

ii. For further impugned quashed/set possession aside Notice the for immovable property dated 10.06.2020 was issued by the Authorised Officer and chief Manager on behalf of Union Bank of India Kankarbagh Branch, District- Patna and the said possession notice was issued to repay the amount mention in the notice being rupees 12,18,561/.23 05.10.2021/19 with subsequent as on interest within 60 days for the date of receipt of said accordingly the borrower/petitioner having failed to repay the amount then in such situation the property described herein exercise of powers conferred on his u/s 13(2) of the said Act read with rule 3 of the Security Interest (enforcement) rules 2002, therefor the petitioner praying for set aside the possession notice issued



by the Authorised Officer and Chief Manager (on behalf of the Kankarbagh Branch).

iii. For further quashing the letter no 149 dated 14.05.2022 issued by the Additional Collector-cum-Senior Officer District Nilam Patra Branch, Patna issued the said letter under SARFAESI Act 2002 for recovery of the loan amount and also proceeding for deputed the magistrate for taking possession of the immovable property therefor the petitioner praying for the set aside the letter no 149 dated 14.05.2022 and allow the petitioner to file the objection. petitioner u/s 9 of Bihar and Public demand Act Bihar and Odisha public demand Recover Act 1914.

iv. For issuance of any appropriate rules or directions to the respondents concern to receive the loan amount in six instalments of total loan amount with subsequent interest and also given direction to the respondent concern to not sale the land of the petitioner.

v. For that given direction to Bank Authority to given liberty to pay loan amount partly without interest and also given direction to the Respondent Bank not to dispossess the petitioner from his security.

vi. For further given a direction to stay proceeding/operation which has passed in Memo No. 3716 dated 22.10.2022 passed by Sub-Divisional Officer (SDO) Patna Sadar.

vii. For issuance of any appropriate rules or direction(s) as this Hon'ble court may found fit and proper to facts and circumstances of the



case as well as for which the petitioner may be found entitled thereto.”

In view of the fact that Debts Recovery Tribunal and Debts Recovery Appellate Tribunal are now functional, learned counsel for the petitioner, under instructions, seeks permission to withdraw the present petition with liberty to take recourse to such other appropriate remedies, as are otherwise available, in accordance with law.

Permission granted.

Needless to add, if the petitioner moves an application in accordance with law within a period of four weeks, the same shall be considered and decided expeditiously and preferably within a period of six months thereafter.

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

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Bibhash/KCJha

AFR/NAFR	
CAV DATE	
Uploading Date	1.2.2023
Transmission Date	

