

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2780 of 2024

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Raja Prasad Son of Late Bisheshwar Prasad Resident of Flat No. 303, Narain Place, Behind Punjab and Sind Bank, Fulwari, District- Patna.

... .. Petitioner/s

Versus

1. Indian Bank having its Corporate Office at 254-260, Avvai Shanmugam Salai, Royapettah, Chennai- 600014.
2. Indian Bank, Zonal Office, Patna, 1st Floor, Govind Bhawan, Budh Marg, New Dak Bungalow Road, Patna- 800001.
3. The Chief Branch Manager, Indian Bank, Exhibition Road Branch, Arunachal Bhawan, Exhibition Road, Patna- 800001.
4. The Authorized Officer, Indian Bank, Exhibition Road Branch, Arunachal Bhawan, Exhibition Road, Patna- 800001.
5. The Collector/District Magistrate, Patna.
6. The Sub Divisional Officer, Patna Sadar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Mohan, Adv.

For the Respondent/s : Mr. Hitesh Suman, Standing Counsel 13

For Respondent No.1 to 4/ Bank: Dr. Binod Kumar Jha,

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 21-02-2024 Mr. Samdarshi, learned counsel for the petitioner submits that the Respondent-Bank has sold the mortgage property of the petitioner comprising Shop No. 103 and 104, Block-B, Ambition Business Centre, Laxmikant Niketan Parishar, Jamal Road, Patna-1 on the total amount of Rs. 98,47,672/- on 24.01.2024.

2. Learned counsel further submits that the price of the property has been under valued by the Bank which is half of the Government value as well as half of the real market value. The petitioner, being aggrieved by the arbitrary action of the Respondent-Bank, has filed the SAFRAESI Appeal bearing S.A. No. 390/2023 for quashing of possession notice. An Interlocutory Application bearing No. 44/2024 has also been



filed before DRT, Patna for stay and for quashing of the sale notice dated 19.12.2023 fixing the date for e-auction sale on 24.01.2024 on a total reserve price of Rs. 65,78,000/-. Learned counsel further submits that the next date fixed by the DRT, Patna, is 12th of April, 2024.

3. Learned counsel for the petitioner next submits that a proceeding has been initiated by bank before the District Magistrate for taking possession and for providing police force under Section 14 of the SARFAESI Act.

4. Learned counsel for the Respondents/Bank submits that the petitioner has already approached DRT, Patna where the matter is pending and the DRT, Patna has fixed the next date of hearing on 12.04.2024. He further submits that the District Magistrate has passed the order under Section 14 and has referred the matter to SDM for execution of order dated 24.01.2024 for providing police force etc.

5. I have heard the learned counsel for the parties.

6. Obviously, the matter is pending before the DRT, Patna and the DRT, Patna is in seisin of the matter where the next date is fixed on 12.04.2024. The petitioner has remedy under Section 17 of the SARFAESI Act against the order of District Magistrate before DRT, Patna. In view of the fact that



the District Magistrate has already passed the order for possession of the petitioner’s property and has sent the matter before the SDM for execution and deployment of the police force, accordingly, I feel it expedient to dispose the writ application with liberty to the petitioner to challenge the order of the District Magistrate dated 24.01.2024 within one week.

7. If SA is filed is filed by the petitioner against the order of the District Magistrate under Section 17 of the SARFAESI Act, the DRT, Patna shall consider the same in accordance with law. I find that the petitioner has apprehension that the property in question shall be resumed after the order of the District Magistrate, accordingly, I restrain the Bank and District Magistrate from taking possession of the petitioner’s property for a period of one month during which the petitioner may prefer an appeal against the order of the District Magistrate before the DRT.

8. With the aforesaid observation and direction, the present writ application stands disposed of.

(Anil Kumar Sinha, J)

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