

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 2789 of 2024

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Arun Kumar Son of Late Ramkripal Sah, resident of Mohalla- Gandhi Nagar,
Kachchi Pakki Atardah, Ward No.- 31, P.S.- Muzaffarpur Sadar, District-
Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Muzaffarpur, District- Muzaffarpur.
3. The Block Development Officer, Mushhari, District- Muzaffarpur.
4. The Branch Manager, Subham Housing Development Finance Company Ltd., Tirupati Complex, 2nd Floor beneath of Over bridge P.O.- Aamgola, P.S.- Kaji Mohammadpur, District- Muzaffarpur.
5. Shri Sanjay Chaturvedi, presently posted as C.E.O. -cum- Director, Subham Housing Development Finance Company Ltd., Subham House- 425, Jawala Mill Road, Udyog Vihar - 04, Gurgaon, Hariyana.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Shashi Bhushan Singh, Advocate
For the State	:	Mr Mithilesh Kr Singh, AC to SC XV
For Respondents 4 & 5	:	Mr Deepak Kumar, Advocate

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CORAM: HONOURABLE MR JUSTICE A ABHISHEK REDDY

ORAL ORDER

5 22-04-2024

Heard the parties.

2 The present writ petition has been filed for the following reliefs:

“For issuance of an appropriate writ in the nature of certiorari for quashing the order dated 09.01.2024 issued under the signature of the District Magistrate, Muzaffarpur passed in Case No 102/SARFAESI/2023 by which direction has been given to take possession by 15.02.2024 of mortgaged property i e land and house of the petitioner situated at Kachchi Pakki Atardah, Muzaffarpur on Khata No 82, Khesra No 314 Area one decimal bearing Deed No 10630



dated 04.05.2011 executed in the name of Raj Kumari Devi (wife of the petitioner), as the Company has sanctioned only Rs 3,49,977/- the petitioner has already paid Rs 7,50,000/- even then at the rate of 20% interest demanding Rs 6,64,000/- more without providing any valid paper to the petitioner.

(II) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case.”

3 Learned counsel appearing on behalf of the Respondent-Company has stated that the present writ petition is not maintainable having an alternative and effective remedy of filing application under Section 17 of the SARFAESI Act against the order, if any, passed under Section 13 (4). Learned counsel has stated that this Court vide order dated 15.02.2024 has already granted protection to the petitioner and the petitioner may be directed to approach the DRT for redressal of his grievance, if any. Learned counsel has relied upon the judgment of Hon'ble Supreme Court passed in the case of *Kotak Mahindra Bank Limited -Versus- Girnar Corrugators Private Limited & Others, (2023) 3 Supreme Court Cases 210.*

4 Having regard to the above submissions made by the counsels, this Court is of the opinion that ends of justice would be met if the petitioner is directed to approach the



concerned DRT under Section 17 of the SARFAESI Act within a period of four weeks from today.

5 For a further period of four weeks, the impugned order passed by the District Magistrate under Section 13 (4) shall remain stayed.

6 In case the petitioner does not approach the DRT within the above specified time, the authorities are free to take necessary action in accordance with law. If any IA is filed by the petitioner seeking interim protection pending the SA filed by him, the DRT shall consider the same on its own merit and pass necessary orders.

7 With the above direction, the writ petition stands disposed of.

(A Abhishek Reddy , J)

M.E.H./-

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