

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13641 of 2024

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Bhagwan Lal Jha son of Late Bal Mukund Jha, Resident of House No. 29, A./J.P.N. Lane Near Patliputra High School, Jagat Narayan Road, Police Station-Kadamkuan, District-Patna-800003.

... .. Petitioner/s

Versus

1. The Indian Bank through its Chairman cum Managing Director having its Corporate Office at PB No. 5555, 254-260, Avvai Shanmugam Salai, Royapettah, Chennai-600014.
2. The Zonal Manager, Zonal Office, Indian Bank (erstwhile Allahabad Bank), Near Kotwali Police Station, Police Station-Kotwali, District-Patna.
3. The Authorized Officer, Indian Bank (erstwhile Allahabad Bank), Patliputra Colony Branch, Patliputra.
4. The Chief Manager, Indian Bank (erstwhile Allahabad Bank), Patliputra Colony Branch, Patliputra.
5. Narsingh Singh, son of Brahma Singh, Resident of Saketpuri, Road No. 1, Near Ambedkar Chowk, Hanuman Nagar, Patna.
6. Ashutosh Kumar Jha, son of Shri Ashok Kumar Jha, resident of Flat No. 621, Jyotipuram Apartment, Jagdeo Path Chauraha, Police Station-Rupaspur, District-Patna, presently residing at Village and Post Office-Hansa, Block-Waris Nagar, District-Samastipur.
7. M/s Rajnandani Projects Pvt. Ltd. through its Managing Director Sanjeet Kumar Singh, Resident of Room No. 6, Ward No. 18, Chandradeo Complex, Dakbungalow Road, Bandarbargicha, Police Station-Kotwali, District-Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 13321 of 2024

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Ashutosh Kumar Jha Son of Shri Ashok Kumar Jha, Resident of Flat No. 621, Jyotipuram Apartment, Jagdeo Path Chauraha, Police Station-Rupaspur, District-Patna, presently residing at village and Post Office-Hansa, Block-Waris Nagar, District-Samastipur.

... .. Petitioner/s

Versus

1. The Indian Bank through its Chairman cum Managing Director having its Corporate Office at PB No. 5555, 254-260, Avvai Shanmugam Salai, Royapettah, Chennai-600 014.
2. The Zonal Manager, Zonal Office Indian Bank (erstwhile Allahabad Bank), Near Kotwali Police Station, Police Station-Kotwali, District-Patna.
3. The Authorized Officer, Indian Bank (erstwhile Allahabad Bank), Patliputra Colony Branch, Patliputra.
4. The Chief Manager, Indian Bank (erstwhile Allahabad Bank), Patliputra



Colony Branch, Patliputra.

- 5. Narsingh Singh son of Brahma Singh, Resident of Saketpuri, Road No. 1, Near Ambedkar Chowk, Hanuman Nagar, Patna.
- 6. Bhagwan Lal Jha, son of Bal Mukund Jha, Resident of House No. 29 A./J.P.N. Lane Near Patliputra High School, Jagat Narayan Road, Police Station-Kadamkuan, District-Patna.
- 7. M/s Rajnandani Projects Pvt. Ltd. through its Managing Director Sanjeet Kumar Singh, Resident of Room No. 6, Ward No. 18, Chandradeo Complex, Dakbunglow Road, Bandarbagicha, Police Station-Kotwali, District-Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 13641 of 2024)

For the Petitioner/s : Mr. Aastha Ananya, Adv.
For Indian Bank : Mr. Rajan Ghoshrahe, Adv.
For the Respondent/s : Mr. Dr. Binod Kumar Jha, Adv.

(In Civil Writ Jurisdiction Case No. 13321 of 2024)

For the Petitioner/s : Mr. Aastha Ananya, Adv.
For Indian Bank : Mr. Rajan Ghoshrahe, Adv.
For the Respondent/s : Mr. Dr. Binod Kumar Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

4 09-12-2024 Heard the learned counsel for the parties.

The present writ petitions have been filed for the following reliefs:-

“(i) For a writ, order or direction in the nature of certiorari to quash the Judgment and Order dated 26.07.2024 passed in S.A. No. 110 of 2020 by the Learned Presiding Officer, Debts Recovery Tribunal, Patna whereby the SARFAESI Appeal preferred by the original borrower has been dismissed on the ground of non-joinder of mortgagor i.e., the petitioner and guarantor as they were held to be necessary party and consequently, it was held by the Learned Presiding Officer, Debts Recovery Tribunal, Patna that the securitization application filed by the original borrower was not maintainable in absence of the mortgagor which decision suffers from an error committed in exercise of jurisdiction and therefore, jurisdiction has been exercised erroneously in erroneously dismissing the SARFAESI application and thus the impugned Judgment and order is arbitrary and illegal.



(ii) For restraining the respondents from taking forceful physical possession of the secured asset through coercive arm of the state during the pendency of the writ petition.

(iii) For grant of status quo.

(iv) For any other relief/ reliefs to which the petitioner is found entitled in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the respondent-Bank as well as the private respondent have vehemently opposed the very maintainability of the present writ petition on the ground that the petitioners are having an alternative and efficacious remedy of filing an appeal. Learned counsel have therefore, prayed this Hon'ble Court to dismiss the present writ petition.

4. A perusal of the impugned order dated 26.07.2024 passed by the learned Presiding Officer, DRT, Patna reveals that the S.A. No. 110 of 2020 filed by the petitioner was dismissed on the ground that the petitioners have not impleaded the mortgagor/ guarantor. However, it is to be noted that the DRT, Patna vide order dated 13.01.2023 has allowed the I.A. filed by the petitioner seeking to implead the mortgagor/ guarantor. Further, in the impugned order at Para No. 3, the DRT, Patna had taken note of the above fact but however, while passing the impugned order, this aspect was lost sight. The present writ petitions are liable to be allowed on this short ground alone. The



matter is remanded back to the DRT, Patna for passing orders on merits of the case duly providing an opportunity of hearing to all the parties. Accordingly, the present writ petitions stand allowed to the extent indicated.

(A. Abhishek Reddy, J)

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