

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2664 of 2025

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Anoj Kumar Son of Sri Murlidhar Singh C/o Nitu Niwas, Ward no 3/11
Lovely Anand Path, Naya Bazar Saharsa, Police Station-Saharsa, District-
Saharsa.

... .. Petitioner/s

Versus

1. The Canara Bank through its CMD, having its Registered Head Office at Canara Bank, Head Office, 112, J.C. Road, Bangalore.
2. The General Manager, Canara Bank, Circle Office at Luv-Kush Tower, Exhibition Road, Patna.
3. The Deputy General Manager, Canara Bank, Circle Office at Luv-Kush Tower, Exhibition Road, Patna.
4. The Assistant General Manager, Canara Bank, Regional Office Kaptanpara, Khushkibag, Purnea.
5. The Branch Manager, Canara Bank, Branch, Bhattha Bazar, Purnea.
6. The Authorized Officer, Canara Bank, Purnea.
7. The District Magistrate, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar, Adv. Mr.Pravashankar Mishra, Adv.
For the Respondent/s	:	Mr.Sitaram Yadav, GP -16 Mr. Jitendra Kumar, AC to GP -16.
For Bank		Mr. Rajan Ghosarvey, Adv.

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

7 08-09-2025 Heard learned counsel for the parties.

2. Learned counsel appearing on behalf of the petitioner submits that pursuant to the interim order granted by this Court, the petitioner has been depositing amounts in the loan account and the loan account has been regularized. Learned counsel submits that the demand notice issued under Section 13(2) dated 11.12.2024 has already been withdrawn.



Learned counsel has drawn the attention of this Court to para -6 of the counter affidavit filed on behalf of respondent /Canara Bank to buttress his contention. Further learned counsel has stated that though the authority has withdrawn the notice issued under Section 13(2) of the SARFAESI Act, the order dated 16.03.2024 (Annexure P/4 still holds good. Learned counsel submits that as per the judgment of the Hon'ble Supreme Court in **SBI v. Rajesh Agarwal** reported in **(2023) 6 SCC 1**, the authorities before passing any order, have to necessarily grant an opportunity of hearing to the petitioner but in this particular case, the same has not been done. Learned counsel for the petitioner has drawn the attention of this Court to para -93 of the said judgment which reads as under:-

“93. In light of the legal position noted above, we hold that the rule of *audi alteram partem* ought to be read in Clauses 8.9.4 and 8.9.5 of the Master Directions on Fraud. Consistent with the principles of natural justice, the lender banks should provide an opportunity to a borrower by furnishing a copy of the audit reports and allow the borrower a reasonable opportunity to submit a representation before classifying the account as fraud. A reasoned order has to be



issued on the objections addressed by the borrower. On perusal of the facts, it is indubitable that the lender banks did not provide an opportunity of hearing to the borrowers before classifying their accounts as fraud. Therefore, the impugned decision to classify the borrower account as fraud is vitiated by the failure to observe the rule of *audi alteram partem*. In the present batch of appeals, this Court passed an ad interim order [*Shree Saraiwwalaa Agrr Refineries Ltd. v. Union of India*, 2022 SCC OnLine SC 1905] restraining the lender banks from taking any precipitate action against the borrowers for the time being. In pursuance of our aforesaid reasoning, we hold that the decision by the lender banks to classify the borrower accounts as fraud, is violative of the principles of natural justice. The banks would be at liberty to take fresh steps in accordance with this decision”.

3. A perusal of impugned order dated 16.03.2024 (Annexure P/4) does not reveal that any personal hearing has been afforded to the petitioner.

4. Having regard to the same, the impugned order dated 16.03.2024 is set aside. In case the authorities want to take any action, they shall first issue show-cause notice to the



petitioner, call for his explanation and after granting an opportunity of hearing to him, shall pass a reasoned order.

5. With the aforementioned direction, the writ petition stands disposed of.

(A. Abhishek Reddy , J)

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