

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4721 of 2024

1. Anurag Kumar Son of Baban Kumar Represented through their Mother and Natural Guardian Mamta Devi, W/o Baban Kumar. Resident of Mohalla- Sultanpur, P.S.- Danapur, District- Patna.
2. Gyan Son of Baban Kumar Represented through their Mother and Natural Guardian Mamta Devi, W/o Baban Kumar. Resident of Mohalla- Sultanpur, P.S.- Danapur, District- Patna.
3. Narayani Kumari D/o Baban Kumar Represented through their Mother and Natural Guardian Mamta Devi, W/o Baban Kumar. Resident of Mohalla- Sultanpur, P.S.- Danapur, District- Patna.
4. Kangana Kushwaha D/o Baban Kumar She has become now major. Resident of Mohalla- Sultanpur, P.S.- Danapur, District- Patna.
5. Mamta Devi W/o Baban Kumar Resident of Mohalla- Sultanpur, P.S.- Danapur, District- Patna.

... .. Petitioner/s

Versus

1. Canara Bank, SME, Specialized Branch, Ashiyana- Digha Road, Raja Bazar, Patna.
2. M/S Aryan Food and Agro Enterprises Pvt. Ltd. a duly Registered Company under the Companies Act, 1956 having its registered office at H. No. 5, SBI Colony, Khagri Road, Takyapar, Danapur, Patna- 800012. Factory Address- Banwaripur, Bihta, P.S.- Bihta, Patna- 801111.
3. Pranav Kumar Sinha Son of Late A. K. Sinha Director, M/S Aryan Food and Agro Enterprises Pvt. Ltd. Kayasth Toli, Awasthi Ghat, Digha, Patna- 800011.
4. Rakesh Kumar Son of Late Ambika Singh Director, M/S Aryan Food and Agro Enterprises Pvt. Ltd. H. No. 5, SBI Colony, Khagri Road, Takyapar, Danapur, Patna- 800012.
5. Chandan Kumar S/o Mohan Ray Director, M/S Aryan Food and Agro Enterprises Pvt. Ltd. Chitrakut Nagar, Danapur, Patna- 800012.
6. Randhir Kumar Son of Vinod Yadav Director, M/S Aryan Food and Agro Enterprises Pvt. Ltd. Dilawarpur, Bihta, Patna- 801103.
7. Rita Kumari W/O Ram Kishore Singh Manager, M/S Aryan Food and Agro Enterprises Pvt. Ltd., 101, Sadar Hospital, Danapur, Patna- 801503.
8. Baban Kumar Son of Late Nand Kishore Prasad Director, M/S Aryan Food and Agro Enterprises Pvt. Ltd., Sultanpur, Near DAV School, Danapur, Patna- 801503.
9. Prashant Kumar Sinha Son of Late A. K. Sinha Kayasth Toli, Awasthi Ghat, Digha, Patna- 800011.
10. Chandra Jyoti Devi W/o Late Ambika Singh H. No. 5, SBI Colony, Khagri Road, Takyapar, Danapur, Patna- 800012.

... .. Respondent/s



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Appearance :

For the Petitioner/s : Mr. Subodh Prasad, Adv.
For Canara Bank : Mr. Siddhartha Harsh, Adv.
For the Respondent/s : Mr. Sheela Sharma, Adv.

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

13 19-08-2025 The Hon'ble Supreme Court passed in *Celir LLP v. Bafna Motors(Mumbai) (P) Ltd. (2024) 2 SCC 1* has held as under;

“105. We summarise our final conclusion as under:

(i) The High Court was not justified in exercising its writ jurisdiction under Article 226 of the Constitution more particularly when the borrowers had already availed the alternative remedy available to them under Section 17 of the SARFAESI Act.

(ii) The confirmation of sale by the Bank under Rule 9(2) of the Rules of 2002 invests the successful auction purchaser with a vested right to obtain a certificate of sale of the immovable property in form given in appendix (V) to the Rules i.e., in accordance with Rule 9(6) of the SARFAESI.

(iii) In accordance with the unamended Section 13(8) of the SARFAESI Act, the right of the borrower to redeem the secured asset was available till the sale or transfer of such secured asset. In other words, the borrower's right of redemption did not stand terminated on the date of the auction sale of the secured asset itself and remained alive till the transfer was completed in favour of the auction purchaser, by registration of the sale certificate and delivery of possession of the secured asset. However, the amended provisions of Section 13(8) of the SARFAESI Act, make it clear that the right of the borrower to redeem the secured



asset stands extinguished thereunder on the very date of publication of the notice for public auction under Rule 9(1) of the Rules of 2002. In effect, the right of redemption available to the borrower under the present statutory regime is drastically curtailed and would be available only till the date of publication of the notice under Rule 9(1) of the Rules of 2002 and not till the completion of the sale or transfer of the secured asset in favour of the auction purchaser.

(iv) The Bank after having confirmed the sale under Rule 9(2) of the Rules of 2002 could not have withhold the sale certificate under Rule 9(6) of the Rules of 2002 and enter into a private arrangement with a borrower.

(v) The High Court under Article 226 of the Constitution could not have applied equitable considerations to overreach the outcome contemplated by the statutory auction process prescribed under the SARFAESI Act.

(vi) The two decisions of the Telangana High Court in the case of Concern Readymix (supra) and Amme Srisailam (supra) do not lay down the correct position of law. In the same way, the decision of the Punjab and Haryana High Court in the case of Pal Alloys (supra) also does not lay down the correction position of law.

(vii) The decision of the Andhra Pradesh High Court in Sri Sai Annadhatha Polymers (supra) and the decision of the Telangana High Court in the case of K.V.V. Prasad Rao Gupta (supra) lay down the correct position of law while interpreting the amended Section 13(8) of the SARFAESI Act.

2. This Court is not inclined to entertain the present writ petition. The present writ petition is disposed of granting liberty to the petitioners to approach the DRAT, Allahabad by



way of an appeal or challenge the auction sale and the sale certificate issued by the respondent-Bank.

3. With the above direction, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

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