IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19818 of 2015

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M/s Maa Katyayni Mercantile Pvt. Ltd. Son of Bhola Prasad Singh Resident of Mohalla 2/C, New Patliputra Colony, Param Vihar Apartment, P.S. Patliputra, Distt. Patna.

... ... Petitioner/s

Versus

1. Indian Bank through its Branch Manager-cum-Assistant General Manager, Patna Main Branch, Biscomaun Building, Ground Floor, West Gandhi Maidan, Patna
2. Presiding Officer, Debt Recovery Tribunal, 34, Bank Road, Opp. New Police Line, Lodipur, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Jha, Advocate
For the Bank	:	Dr. Binod Kumar Jha, Advocate
		Mr. Devendra Prasad, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

CAV JUDGMENT

Date : 15-05-2025

1. The petitioner has filed the Writ petition for the following reliefs:

> *" That the writ petition is being filed or issuance of writ in the nature of certiorari for quashing the order dated 11.09.2015 passed by the Ld. Presiding Officer, Debt Recovery Tribunal, Patna which was passed violating the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and Rule made there under and the order was passed is without assigning the reasons though the issues were raised and form part of the order under challenge. The*

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petitioner further prays for a direction to Ld. Presiding Officer to record reason in original order, as it can not be compensated by the reason in the appellate order.

The petitioner further prays for issuance of writ of mandamus restraining the respondents concerned from proceeding further and giving effect to order dated 11.9.2015 passed in OA Case No. 178 of 2014 and the Certificate issued U/s 19(22) of the DRT Act, 1993.

The petitioner further prays for issuance of any other appropriate writ/writs, order/orders and or direction/directions for which petitioner may be found entitled."

2. The brief facts of the case culled out of the writ petition is that the petitioner, M/s Maa Katyayni Mercantile Pvt. Ltd., a private limited company registered under the Companies Act, 1956, is engaged in business through loans from banks. Initially, the business was run as a proprietorship under the name "Sai Enterprises" by Sanjay Kumar Singh, with two partners and nine

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guarantors.

3. It is submitted in the Writ petition that the respondent bank granted a Cash Credit Facility of Rs.150 lakhs on 10.12.2008. Due to unforeseen circumstances, the account turned non-performing (NPA) and was classified as such on 31.12.2009. Sai Enterprises had received a work order worth Rs.1,09,98,000 from Vishal Builtech (India) Pvt. Ltd. for supplying stone chips. In response, the petitioner made the required supply, and a cheque dated 15.03.2008 for Rs.1,64,97,000 (cheque no. 391622) was issued in its favour by Vishal Builtech. The cheque was submitted to the respondent bank, but no payment was made. The petitioner alleges that the bank refused to honor the cheque based on undisclosed advice from Vishal Builtech, causing significant loss to the petitioner’s business. No reason for non-payment was communicated by the bank. Subsequently, on the bank’s advice, the proprietorship was restructured into M/s Maa Katyayni Mercantile Pvt. Ltd. With no adjustment made for the cheque amount, the petitioner filed

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CWJC No. 5515 of 2011. During proceedings, the Court sought clarification on paragraph 5 of the writ petition (CWJC No. 5515 of 2011), which detailed the cheque transaction. The bank, in its counter affidavit, denied receipt of the cheque and emphasized the absence of a deposit slip or any supporting document. It suggested that the petitioner may have been informed of insufficient funds in Vishal Builtech's account, which showed a debit balance ranging from Rs.1.73 crores to Rs.1.66 crores during March 2008. The bank strongly denied any misconduct. In a supplementary affidavit, the petitioner maintained that the cheque was deposited, but neither returned nor dishonored formally, and no reason for non-payment was provided. While the writ petition was pending, the bank filed two Original Applications (O.A. No. 177/2014 and O.A. No. 178/2014) before the Debt Recovery Tribunal (DRT), Patna. Consequently, CWJC No. 5515 of 2011 was disposed of on 23.06.2015 with liberty to the parties to raise all factual and legal issues

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before the DRT.

4. In compliance, the petitioner submitted evidence before the Tribunal in support of its claim.

(i) Letter dated 28.2.2008 written by Vishal Builtech (India) Pvt.Ltd.

(ii) Cheque No. 15.3.2008 for Rs. 1,64,97,000/- no. "391622" alongwith deposit receipt.

(iii). Fund Book Folio No. 015 dated 9.5.2008 (Annexure-4) maintained by respondent bank.

(iv) Fund Book dated 23.5.2008 (Annexure-4/A) showing hold value of Rs. 2,40,00,000/-.

5. It is submitted that the petitioner produced undisputed evidence during the proceedings of O.A. No. 178/2014. However, the Tribunal recorded that the Cheque No. 391622 was received by the Bank, but could not be realized due to insufficient funds in the account of M/s Vishal Builtech. It is further conceded by the Learned Counsel for the Bank that the Bank is holding Rs.2.4 crore of M/s Vishal Builtech.

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6. It is submitted by the petitioner that this statement is contradictory. On one hand, the Bank claims the cheque was dishonoured due to insufficient funds; on the other, it admits holding Rs.2.4 crore of M/s Vishal Builtech. If the cheque was dishonoured, it ought to have been returned unpaid as per Section 138 of the Negotiable Instruments Act, 1881, making the drawer liable. However, no such record of dishonour or return of cheque exists.

7. The Learned counsel for the petitioner submitted that the Tribunal's refusal to allow set-off, as stated in Paragraph 11 of the judgment, is unsupported by evidence and reads: "*11. In this case, the main dispute regarding set off of Rs. 1,64,97,000/-. In this respect, Ld. Counsel of applicant bank has submitted that cheque no. 391622 has been received by bank and the cheque could not be realized due to insufficient fund in the account of M/s Vishal Builtech. Hence, the stands taken by defendants is not tenable. Since, the cheque amount has not been credited in*

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loan account, therefore, the question of set off does not arise."

8. It is submitted that this finding is beyond the pleadings and amounts to an error of fact apparent on the face of the record, thus constituting a jurisdictional error.

9. It is further submitted by the Learned counsel for the petitioner that the Tribunal's judgment is contrary to Rule 12(8), which mandates that the provisions of Section 4 of the Bankers' Books Evidence Act, 1891 shall apply. In this regard, the Learned counsel for the petitioner cited Section 4 of Banker"s Books of Evidence , which reads as follows:

> "*<u>Mode of proof of entries in banker's book</u>:*
>
> *Subject to provisions of this Act, a certified copy of any entry in banker's book shall, in all legal proceedings be received as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions, and accounts therein recorded in every case where, and to the same extent as, the original entry itself is*

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now by law admissible, but met further or otherwise.”

10. It is further submitted that the certified copy submitted by the Bank under Section 19(1) showed a balance of Rs.2,59,67,919.27, yet the Tribunal awarded Rs.6,37,57,097.64 — an amount unsupported by evidence and contrary to Rule 12(8) read with Section 19(1) of the DRT Act, 1993.

11. The Learned counsel for the petitioner submitted that the Tribunal failed to assign any reason for awarding contractual interest and ignored objections that interest must be governed by Section 34 CPC, which permits only simple interest. The petitioner raised the following issues: (i) Charging of interest from date of cause of action till date of filing of application, (ii) From date of filing of application till date of certificate and (iii) From the date of certificate till date of realization.

12. In support of the case of the petitioner, the Learned counsel has relied on the judgments of the Hon’ble Supreme Court judgments, (I) **Punjab & Sind Bank v. Allied**

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Beverage Co. Pvt. Ltd. [(2010) 10 SCC 640], where the Apex Court, following ***Central Bank of India v. Ravindra*** **[(2002) 1 SCC 367],** held that pendente lite and post-decree interest is discretionary under Section 34 CPC and must be applied judicially, (2) **C.K. Sasankan v. Dhanlakshmi Bank Ltd. [(2009) 11 SCC 60]**, where the Court examined Section 34 CPC and Section 3 of the Interest Act, 1978, and held that interest must be reasonable and aligned with the prevailing bank rate.

13. It is submitted by the petitioner that in these judgments, the Apex Court emphasized that interest from the date of filing till realization is within the court's discretion and must be based on legal principles. In *Ravindra (supra)*, an interest rate of 25% p.a. (pendente lite) and 19.4% p.a. (post-decree) was deemed exorbitant and reduced to 9% p.a. It was further submitted that both Section 34 CPC and Section 3 of the Interest Act empower courts to grant only simple interest and do not authorize compound interest or interest on

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interest.

14. The Learned counsel for the petitioner submitted that despite clear legal principles, the Tribunal passed the judgment dated 11.09.2015 (Annexure-5) in O.A. No. 178/2014 without assigning proper reasons and based on no admissible evidence. The findings are contrary to law, beyond pleadings, and passed in excess of jurisdiction. Left without any effective remedy, the petitioner seeks intervention of this Hon’ble Court to declare the impugned judgment void being contrary to law and without jurisdiction.

15. A detailed counter affidavit was filed by respondent Indian Bank. Per contra, it is averred that the petitioner has made irresponsible and maliciously false statements in the writ petition. Therefore, the respondent bank most respectfully submits that the instant writ application is not maintainable, either on facts or in law.

16. It is further contended on behalf of the respondent bank that the Hon'ble Apex Court, in a catena of judgments, has held that a party seeking

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the issuance of a high prerogative writ must first exhaust all alternative remedies available under the law before approaching the Hon'ble Court.

17. It is further contended on behalf of the respondent Bank that in its judgment dated 26.07.2010 passed in the **Civil Appeal No. 5990 of 2010 between United Bank of India vs Satyawati Tondon and others (2010) 8 SCC 110**, Hon'ble Apex Court has clarified and directed in Para 55 as " It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and SARFAESI Act and exercise jurisdiction under Article 226 for passing orders serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care, and circumspection."

18. In the case of **Phoenix ARC Private Limited vs. Vishwa Bharti Vidhya Mandir &**

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Others, Civil Appeal Nos. 257-259/2022, Hon'ble Apex Court vide their judgement dated 12.01.2022 has held that High Court should not entertain Petition when a remedy under SARFAESI Act is available. It is further contended that Hon'ble Supreme Court in the case of **Mathew K.C.** reported in **[(2018)3 SCC 85** after referring to and/or considering their decision in the case of **CIT v. Chhabil Dass Agarwal, (2014) 1 SCC 603,** has observed, and held in paragraph 5 as under:

> *"5. We have considered the submissions on behalf of the parties. Normally this Court in exercise of jurisdiction under Article 136 of the Constitution is loath to interfere with an interim order passed in a pending proceeding before the High Court, except in special circumstances, to prevent manifest injustice or abuse of the process of the court. In the present case, the facts are not in the discretionary jurisdiction under Article 226 is not absolute but has to be exercised judiciously in the given facts of a*

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case and in accordance with law. The normal rule is that a writ petition under Article 226 of the Constitution ought not to be entertained if alternate statutory remedies are available, except in cases falling within the well-defined exceptions as observed in CIT v. Chhabil Dass Agarwal [CIT v. Chhabil Dass Agarwal, (2014) 1 SCC 603], as follows: (SCC p. 611, para 15)

"15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e. where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case [Thansingh Nathmal v. Supt. of Taxes, AIR

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1964 SC 1419], Titaghur Paper Mills case [Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433] and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation."

19. The Learned counsel for the respondent Bank has further submitted that in **Assistant collector Central Excise, Chandan Nagar, west Bengal Vs Dunlop India Ltd. And others** reported in **(1985) 1 SCC 260**, the Hon'ble Supreme Court has held that "Article 226 is not meant to short-circuit or circumvent

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statutory procedures. It is only where statutory remedies are entirely ill suited to meet the demands of extraordinary situations, as for instance where the very vires of the statute is in question or where private or public wrongs are so inextricably mixed up and the prevention of public injury and the vindication of public justice require it that recourse may be had to Article 226 of the constitution. But then the Court must have good and sufficient reason to bypass the alternative remedy provided by the statute...."

20. The Learned counsel for the respondent Bank further contended that the writ petition has proceeded on misleading facts and misconceived provisions of Banking laws and practices and suffers from the vice of "Suppressio Veri, Suggestio falsi" , hence the petitioner is not entitled for grant of prayers made in the writ petition.

21. The respondent Bank, in reply to para 4 of the writ petition, submitted that the averments are incorrect. M/s Sai Enterprises was a

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proprietorship firm (Proprietor: Sanjay Kumar Singh) sanctioned a loan of Rs.30 lakhs on 18.05.2006, which was enhanced over time, the last being Rs.150 lakhs on 22.02.2008. This loan was repaid and closed on 07.10.2008, after which the firm was converted into a partnership between Ms. Meena Singh and Mr. Chandra Shekhar Singh. A new OCC limit of Rs.150 lakhs was sanctioned on 07.10.2008. The account became NPA on 31.12.2009 due to non-compliance with repayment terms, as per RBI guidelines.

22. Regarding para 5, the Bank submitted that no copy of the alleged work order of Rs.1,09,98,000/- was ever submitted or annexed by the petitioner, hence, the claim is not accepted. The letter dated 28.02.2008 (Annexure A-1) only acknowledges receipt of material worth Rs.1,64,97,000/-, with no mention of an enclosed cheque. Also, the material rate and quantity calculation is inconsistent with the claimed cheque value, casting doubt on the authenticity of the letter.

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23. In response to para 7, the Bank denied having advised the petitioner to change the structure of Sai Enterprises. In fact, M/s Katyayani Mercantile Pvt. Ltd. was already a separate registered company and sanctioned an OCC limit of Rs.1.5 crore on 14.08.2008. Sai Enterprises continued as a separate entity with its own limit.

24. As to para 8, the Bank submitted that the cheque for Rs.1,64,97,000/- was returned unpaid due to insufficient funds and could not be credited. The claim of "no adjustment" is denied. The court's order dated 19.05.2011 did not direct explanation of para 5; it merely granted time to file a counter affidavit. In response to paras 9, 10, 12–14, the Bank reiterated that the cheque was dishonoured and returned. Another cheque (No. 391715 for Rs.72,50,000/-) was honoured and credited to Sai Enterprises on 23.05.2008, showing that non-payment of the disputed cheque was due to insufficient funds, not mala fide intent.

25. The issue of cheque adjustment was raised only in 2011, during restructuring proposals

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and SARFAESI proceedings, and never during earlier credit sanction or conversion phases, suggesting it was an afterthought to avoid repayment. Further, the disputed cheque was unrelated to the loan account of M/s Katyayani Mercantile Pvt. Ltd., which filed this writ.

26. It is submitted by the Learned counsel of the respondent Bank that the petitioner never pursued the cheque recovery with Vishal Builtech (issuer), who remains the liable party. This supports the Bank's claim that the petitioner, in collusion with the issuer, fabricated the claim to frustrate recovery proceedings.

27. In para 11, the Bank noted that the writ petition CWJC 5515 of 2011 was rightly dismissed, as the petitioner had an alternative and effective remedy under Section 17(1) of the SARFAESI Act, as affirmed by the Hon'ble Supreme Court in *United Bank of India v. Satyawati Tandon* [(2010) 8 SCC 110].

28. In response to paras 15–18, the Bank submitted that certified ledger copies and

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contractual interest calculations, as per RBI guidelines and the Bankers Books Evidence Act, 1891, were properly filed before the DRT. Hence, the petitioner's allegations lack merit, and the judgment was delivered in accordance with law.

29. Regarding paras 19–24, the Bank stated that the interest rate was granted under Section 34 CPC, aligned with Supreme Court judgments. Section 34(3) allows interest above 6% in commercial transactions, up to the contractual rate or the standard rate for commercial lending by nationalized banks.

30. The Learned counsel for the respondent Bank submitted that the DRT’s judgment was passed lawfully, based on evidence and the petitioner’s admission of availing and using the loan.

31. The Learned counsel for the respondent Bank lastly submitted that from the facts and circumstances and as per the Judgment of the Hon’ble Supreme Court, the petitioner has got an alternative and efficacious statutory remedy

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to approach Debt Recovery Appellate Tribunal (DRAT) under Sec 18 of the SARFAESI Act. For better appreciation of the case, Section 18 of the SARFAESI Act is quoted here as under:

“18. Appeal to Appellate Tribunal.

(1) Any person aggrieved, by any order made by the Debts Recovery Tribunal 1 [under section 17, may prefer an appeal Along with such fee, as may be prescribed] to the Appellate Tribunal within thirty days from the date of receipt of the order of Debts Recovery Tribunal.

2) [Provided that different fees may be prescribed for filing An appeal by the borrower or by the person other than the borrower:]

3) [Provided further that no appeal shall be entertained unless The borrower has deposited with the Appellate Tribunal fifty percent of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal,

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whichever is less: Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent of debt referred to in the second proviso.]"

32. Heard the Learned counsel for the petitioner as well as the Learned counsel for the respondent Bank.

33. From the facts and circumstances of the case it is pertinent to mention that the recently Hon'ble Apex Court in **Celir LLP Vs. Bafna Motors (Mumbai) (P) Ltd. and Others,** reported in **2024(2) SCC 1 Para 97, 98, 110** have held as under:-

*"**97.** This Court has time and again, reminded the High Courts that they should not entertain petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person under the provisions of the SARFAESI Act. This Court in Satyawati Tondon [United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110 : (2010) 3 SCC (Civ) 260] made the following observations : (SCC pp. 123 & 128, paras 43-45 & 55)*

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"43. Unfortunately, the High Court [Satyawati Tondon v. State of U.P., 2009 SCC OnLine All 2608] overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

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44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance.

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55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.

***98.** In CIT v. Chhabil Dass Agarwal [CIT v. Chhabil Dass Agarwal, (2014) 1 SCC 603] , this Court in para 15 made the following observations : (SCC p. 611, para 15)*

"15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e. where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of

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the principles of natural justice, the proposition laid down in Thansingh Nathmal case [Thansingh Nathmal v. Supdt. of Taxes, 1964 SCC OnLine SC 13] , Titaghur Paper Mills case [Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433 : 1983 SCC (Tax) 131] and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation."

110. *We summarise our final conclusion as under:*

110.1. *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.*

110.2. *The confirmation of sale by*

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the Bank under Rule 9(2) of the 2002 Rules invests the successful auction-purchaser with a vested right to obtain a certificate of sale of the immovable property in the form given in Appendix V to the Rules i.e. in accordance with Rule 9(6) of the Security Interest (Enforcement) Rules, 2002.

110.3. *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 2002 Rules. In effect, the right of redemption available to the borrower under the present statutory regime is drastically curtailed and would be*

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available only till the date of publication of the notice under Rule 9(1) of the 2002 Rules and not till the completion of the sale or transfer of the secured asset in favour of the auction-purchaser.

110.4. *The Bank after having confirmed the sale under Rule 9(2) of the 2002 Rules could not have withheld the sale certificate under Rule 9(6) of the 2002 Rules, and entered into a private arrangement with a borrower.*

110.5. *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.*

110.6. *The two decisions of the Telangana High Court in Concern Readymix [Concern Readymix v. Corporation Bank, 2018 SCC OnLine Hyd 783 : (2019) 3 ALD 384] and Amme Srisailam [Amme Srisailam v. Union Bank of India, 2022 SCC OnLine AP 3484] do not lay down the correct position of law. In the same way, the decision of the Punjab and Haryana High Court in Pal Alloys [Pal Alloys & Metal India (P) Ltd. v. Allahabad Bank, 2021 SCC OnLine P&H 2733] also does not lay down the correction*

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position of law.

110.7. *The decision of the Andhra Pradesh High Court in Sri Sai Annadhatha Polymers [Sri Sai Annadhatha Polymers v. Canara Bank, 2018 SCC OnLine Hyd 178] and the decision of the Telangana High Court in K.V.V. Prasad Rao Gupta [K.V.V. Prasad Rao Gupta v. SBI, 2021 SCC OnLine TS 328] lay down the correct position of law while interpreting the amended Section 13(8) of the SARFAESI Act."*

35. This case is squarely covered by the aforementioned judgment.

36. Admittedly, the petitioner is aggrieved by the order dated 11.09.2015 passed by Learned Presiding Officer, Debt Recovery Tribnunal Patna in O.A. No. 178/2014 determining the debt for recovery of Bank's and in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and the rules made thereunder circumventing the statutory provisions of appeal under Section 20 of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 as also under Section 18 of

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SARFAESI Act.

37. As stated supra, the Hon’ble Apex Court has reminded that High Courts should not entertain application under Article 226 of the Constitution, if there is an effective remedy available to the aggrieved persons under the provisions of the SARFAESI Act. This Court is of the considered opinion that the petitioner has an effective alternative remedy of appeal and therefore, the Writ petition itself is not maintainable. However, the petitioners are at liberty to pursue their remedies.

38. In result, Writ petition is dismissed as it is devoid of merits.

39. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	04.04.2025
Uploading Date	15.05.2025
Transmission Date	

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