IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10877 of 2019

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M/s Sonali Sari Showroom through its Proprietor Dilip Kumar, Son of Lal Kumar Thakur, Resident of Village-Raksa, P.S.Karja, District- Muzaffarpur.

... ... Petitioner/s

Versus

1. The Indian Bank through its Managing Director and CEO, Corporate Office, 254-260-Avvai Shanmugham Salai, Chennai- 600014
2. The Managing Director and CEO, Corporate Office, 254-260-Avvai Shanmugham Salai, Chennai- 600014
3. The Regional Manager, Indian Bank, Gandhi Maidan, Patna- 800001
4. Branch Manager, Indian Bank, Pakri Branch Via Patahi, Muzaffarpur.
5. Authorised Officer, Indian Bank, Pakri Branch Via Patahi, Muzaffarpur.
6. The State of Bihar through Collector Cum District Magistrate, Muzaffarpur.
7. The Senior Superintendent of Police, Muzaffarpur.
8. The Sub Divisional Magistrate(West), Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Abhay Kumar, Advocate
For the Resp. Nos 1-5	:	Mr.Sanjay Singh Thakur, Advocate
For the State	:	Mr. Ranjit Kumar, AC to GP-26

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date : 23-09-2025

1. The present Writ petition is filed for the following reliefs:-

> *"I. For setting aside the order dated 28.02.2019 passed by the Collector cum District Magistrate, Muzaffarpur in Sarfaesi Case no. 10/2019-20 whereby in exercise of powers vested under section 14 of SARFAESI Act District Magistrate, Muzaffarpur has issued direction to*

provide assistance to the respondent Bank authorities in taking possession of land of petitioner kept as secured asset while taking loan ignoring the fact that petitioner has never been served upon/communicated any notice under section 13(2) and 13(4) of the Act

II. For quashing of action of the respondents by which bank authorities are taking step to get physical possession of land of title deed no.6060 dated 27.11.13 appertaining to Khata No. 1329 Plot No. 5761 having area 6 dec. situated in Mauza-Raksa, PS Karja District Muzaffarpur which was mortgaged against Cash Credit Loan taken by the petitioner without observing procedures prescribed in Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 [herein after referred as "Act"] without giving any notice U/s 13(2) and 13(4) of the Act.

III. For a direction to respondents to provide detailed statement of accounts to the petitioner which has not been provided to him till date despite making repeated request in this regard?

IV. Further for a direction to the respondents to consider proposal of repayment of remaining debts, if any by fixing same in reasonable installments in terms of RBI guidelines issued for small loans against NPA accounts?

V. And/or Pass such other order(s) to which petitioner is entitled in the facts and circumstances of the instant case?"

2. Heard the Learned counsel for the petitioners as well as the Learned counsel for the respondent.

3. The Hon'ble Apex Court, in the case of ***United Bank of India v. Satyawati Tondon, reported in (2010) 8 SCC 110***, held as follows:

The High Court 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. 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.*

4. In case of **Celir LLP v. Bafna Motors (Mumbai) (P) Ltd., reported in (2024) 2 SCC 1**, the Hon'ble Apex Court held as follows:-

> *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*

5. In case of ***PHR Invent Educational Society Vs UCO Bank & Ors reported in 2024 Insc 297***, the same principles have been reiterated by the Hon'ble Supreme Court.

6. The above citations of the Hon'ble Apex Court is squarely applies to the present facts and circumstances of the case.

7. Therefore, this Court is of the considerable opinion that when an alternative and effective remedy is available to the petitioners, the petitioner is at liberty to approach the appropriate forum for availing their remedy, and the concerned authority shall also consider the aspect of limitation.

8. With the aforesaid observation, the Writ petition shall stand disposed of.

9. Interlocutory Application(s), if any, shall also disposed of.

(G. Anupama Chakravarthy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.09.2025
Transmission Date	N/A