

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22329 of 2018

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Devendra Prasad son of Sri Sita Ram Prasad, resident of village-Sorhatha
Dharak, P.S. Vaishali, District- Vaishali.

... .. Petitioner/s

Versus

1. The Zonal Manager, The Corporation Bank
2. The Circle Head, Corporation Bank, Circle Office, Kankarbagh Main Road,
Near Nalanda Medical Colleg

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chhote Lal Mishra, Adv.
For the Respondent/s : Mr. Prashant Kumar, Adv.

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 13-08-2025

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

*(i) For quashing of the E-
auction notice published by the
respondent bank in the daily
newspaper Dainik Bhaskar dated
11.11.2018 for the sale of the
property with respect to the
petitioner described therein at serial
No. 3 of the E-auction notice to be
scheduled on 28.11.2018.*

*(ii) Further for direction to
the respondents not to take any*



coercive action for sale of the land of the petitioner which he has acquired by way of purchase vide registered sale deed bearing No. 4260 dated 22.05.2015 executed jointly by Most. Saroj Devi and Sri Jang Bahadur Mahto which is prior to the date of mortgage.

(iii) For a direction to the respondent bank not to take any action under SARFAESI Act with respect to the land owned by the petitioner which he has acquired prior to the mortgage.

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

2. Heard the Learned counsel for the petitioner as well as the Learned counsel for the respondents.

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. Therefore, this Court is of the considerable view that the Writ petition is not maintainable when an alternative and effective remedy is available to the petitioner. However, the petitioner is at liberty to approach the appropriate forum for availing his remedy, and the concerned authority shall also consider the aspect of



limitation.

7. With the aforesaid observations, the
Writ petition stands disposed of.

(G. Anupama Chakravarthy, J)

Manish/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.08.2025
Transmission Date	

