IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2307 of 2018

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Deepak Kumar Son of Jamadar Rai, Resident of Village/Mohalla- Gola Road Jhakhari Mahadeo Mandir, P.S.- Danapur, District- Patna.

... ... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The District Magistrate, Patna.
3. The Regional Officer, Indian Overseas Bank, Patna.
4. The Manager/Officer of Regional Office Naseema House, West Gandhi Maidan, Patna.
5. M/s. T.V.S. Credit Services Pvt. Ltd. 2nd Floor Sri Sadan House No.9, Patliputra Colony, Patna. 800
6. The Branch Manager Indian Overseas Bank, Gola Road Branch, Danapur, District- Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suresh Prasad Singh, Advocate
For the Respondent/s	:	Mr. J.K.Roy No. 1, - SC 13
		B.B.Pd. AC to SC 13

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT
Date : 26-06-2025

1. The petitioner has filed the instant application for the following reliefs:

> *"a. To quash the letter/order dated 08.11.2017 (Annexure-2) passed by Chief Manager, Regional Office Naseema House West Gandhi Maidan, Patna and for a Direction to the respondent authorities no. 5 The Branch Manager Overseas bank to release/return of vehicle KABARI laded Dala with Tractor vide Registration No.*

BR01GD9836, Vehicle class Tracto, Chasis No. 830HE4727, Engine No. 830HE4727 Red Colour in favour of petitioner which has been observe/Seized by the concerning authority of respondent no. 5 for alleged the petitioner has not paid the Schedule of loan amount to the Bank, but petitioner continues paying loan amount to the Bank and got receipt.

b. To provide any other relief/reliefs for which the petitioner is entitled for?"

2. Briefly stated, the relevant facts of the present writ petition are that the petitioner had approached the Indian Overseas Bank, Gola Road Branch, for availing a loan facility for the purchase of a tractor, i.e., the vehicle in question. Accordingly, after execution of the requisite documents, a loan amounting to Rs. 6,32,000/- was sanctioned and disbursed to the petitioner by the Bank, subject to the terms and conditions contained in the loan agreement executed between the parties.

3. Upon the petitioner's failure to pay

the loan installments regularly, the respondent Bank issued reminder notices to the petitioner, calling upon him to clear the overdue amount. Despite such reminders, the petitioner failed to make the requisite payments, and consequently, the petitioner's loan account was classified as a Non-Performing Asset (NPA). The respondent Bank also issued a legal notice dated 26.07.2016 (Annexure-C to the counter affidavit), calling upon the petitioner to make payment of the outstanding loan amount. The said notice further stated that in the event of failure to make the repayment, the Bank would be constrained to initiate appropriate legal action for recovery of the outstanding dues.

4. From Annexure-D to the counter affidavit, it appears that the petitioner failed to take any steps to liquidate the Bank's dues, hence a demand notice dated 17.09.2016 under Section 13(2) of the SARFAESI Act, 2002, was issued by the respondent Bank to the petitioner. Requesting the petitioner to make payment of a sum of Rs. 6,22,408/- within the statutory period of 60 days

from the date of receipt of the notice. It was further stated therein that the tractor, for the purchase of which the loan was sanctioned, had been hypothecated with the respondent Bank and stood as security for the repayment of the said loan amount.

5. Heard the Learned counsel for the parties and perused the records of the case.

6. This Court has noticed that the respondent Bank, by filing a counter affidavit, has brought on record the Loan-cum-Hypothecation Agreement executed between the petitioner and the respondent Bank. Under the document executed by the petitioner, hypothecation was created over the purchased vehicle and apart from other terms and conditions it was also agreed that in the event of default, the respondent Bank, acting through its Officers/Agents shall have the liberty to take possession of the hypothecated tractor and further to sell the same in order to recover the outstanding loan amount.

7. In support of the case of the of the

Bank, the Learned counsel has relied on the judgments of the Supreme Court and High Courts reported in **(2020) 10 SCC 399 : Magma Fincorp Limited Vs. Rajesh Kumar Tiwari, MANU/GJ/0759/2021 : Shree Ram Transport Finance Company Vs. Vasantkaur Mahendrasingh Siddhu and MANU/GH/0857/2008 : Tata Motors Ltd. Vs. Bornali Dutta Bora & Ors.**

8. It is noticed that the matter pertains to Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act. There is an effective alternative remedy available for the petitioner to challenge it before the DRT, but without availing the alternative remedy, the present writ petition is filed.

9. In **PHR Invent Educational Society v. UCO Bank and Others**, (Civil Appeal No. 4845 of 2024), their Lordships of the Apex Court have held as follows:

> *"Ordinarily the High Court would not entertain a petition u/Art. 226 if an effective remedy is available to the*

aggrieved person...”

10. Likewise, in the matter of **Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd. and Ors.** reported in **(2024) 2 SCC 1**, their Lordships of the Apex Court have 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 ...”*

11. In the case of **United Bank of India v. Satyawati Tondon and Ors.** reported in **(2010) 8 SCC 110** their Lordships of the Apex Court have held as follows:-

> *“**43**. ... 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 ...”

It is further held:-

“... *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.”*

12. The Hon’ble Apex Court, in the aforesaid judgments, has categorically held that the High Courts cannot entertain a writ petition under Article 226 of the Constitution when an effective alternative remedy is available to the aggrieved person.

13. The writ petition is, accordingly, dismissed as not maintainable in light of the law laid down by the Hon’ble Supreme Court of India in the aforementioned judgments.

14. The petitioner may approach the appropriate forum in accordance with the law laid down by the Hon'ble Supreme Court of India as stated supra.

15. Interlocutory Application, if any,

shall stands disposed of

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2025
Transmission Date	