IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20517 of 2018

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1. Rameshwar Singh and Anr Son of Late Ram Prasad Singh
2. Smt. Motijharo Devi wife of Shri Rameshwar Singh Both Residents of Village-Baghini,P.S. Mohania,Distt.-Kaimur

... ... Petitioner/s

Versus

1. The State of Bihar and Ors.
2. The Deputy Collector,Land Reforms, Sasaram, Rohtas
3. The Executive Officer,Nagar Parishad,Sasaram, Distt.-Rohtas
4. The Punjab National Bank,having its head Office at 7,Bhikhaji Kama Place,New Delhi,through its Chai
5. The Chief Manager-cum-Authorized Officer,Punjab National Bank, S.M.E. Branch,East Boring Canal Road,
6. The Senior Manager,Punjab National Bank, S.M.E., Branch,East Boring Canal Road, P.S. Buddha Colony,To

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate
		Mr. Avinash Shekhar, Advocate
		Mr. Vijay Shankar Tiwari, Advocate
		Mr. Abhilasha Jha, Advocate
		Ms. Simran Kumar, Advocate
For the State		Mr. Atul Shankar, AC to sc-17
For the PNB	:	Mr. Suresh Pd. Singh, Advocate
		Ms. Kumari Rashmi, Advocate
		Mr. Rishi Raj Sinha -SC-19

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

9 04-12-2025 Heard learned counsel for the parties concerned.

2. The petitioner has filed the present application for setting aside the possession notice dated 11.09.2018 which has been pasted at the house of the petitioners and further direction to the respondent Bank to withdraw the possession notice as the same does not pertain to the property purchased by the petitioners by way of registered sale deed.

3. Mr. Suraj Samdarshi, learned counsel appearing for the petitioners submits that the petitioners purchased the property bearing Plot No. 1069 on 29.11.2016 by virtue of an absolute sale deed registered on 08.12.2016. The details of the property purchased by the petitioners have been described in Para-5 of the writ petition. The respondent Bank on the basis of mortgaged deed dated 17.09.2015 executed and registered by Neera Srivastava against the cash credit facility and bank guarantee of Rs. 1.50 Crores in the name of M/s Shlok Enterprises, proceeded under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interet Act, 2022 (hereinafter referred to as the 'SARFAESI Act') against the borrower after the loan account became NPA. The details of the property mortgaged by the mortgagor have been fully described in the possession notice i.e. Annexure 7 as well as registered deed of mortgage at Annexure 6. The petitioners were surprised when on 11.09.2018 a notice of possession was pasted by the respondent Bank at the gate of the petitioners, stating therein that in view of the failure of M/s.

Shlok Enterprises to repay the loan amount, the possession of the property mortgaged to the Bank is being taken.

4. The learned counsel submits that the petitioners are not at all concerned with the property which was mortgaged by the borrower and the guarantor but the Bank authorities in the garb of the mortgage deed, is trying to take possession of the petitioners purchased property, fully described in Para-5 of the writ petition and annexed at Annexure-1.

5. On the other hand, Mr. Suresh Prasad Singh, learned counsel for the Punjab National Bank submits that one Srikant Saran, the proprietor of M/s. Shlok Enterprises, approached the Punjab National Bank, BO, SME, East Boring Canal Road, Patna and submitted a loan proposal for running rice mill, vide application dated 24.08.2015 and sought a Cash Credit of Rs. 1.20 lakh and offered to execute Mortgage deed in favour of the bank as security against the loan. The property was standing in the name of Smt. Neera Srivastava, wife of late Gyaneshwar Prasad Srivastava. Accordingly, the property belonging to Neera Srivastava described in the possession notice as well as in the registered mortgaged deed was mortgaged in favour of the Bank by Neera Srivastava on 17.09.2015. The writ petition filed by the petitioner is misconceived inasmuch the Bank shall not touch the property of the petitioner described in Annexure-1 to the writ petition and clarified in Para-5 of the writ petition. However, learned counsel submits that Bank shall proceed under the SARFAESI Act against the property which was mortgaged and fully described in the possession notice as well as mortgaged deed which is annexed at Annexure 6 of the writ petition. The petitioners have already filed suit against the Bank and others bearing Title Suit No. T.S. 442 of 2021 which is pending before the Court of Subj Judge-IX, Sasaram. He further submits that writ is not maintainable.

6. Upon hearing, learned counsel for the parties, it is evident that the properties claimed by the petitioners are different than that of properties mortgaged by M/s. Shlok Enterprises/borrower/Smt. Neera Srivastava, the description of property as mentioned in Annexure-1, belonging to the petitioner and the description of property as mentioned in registered mortgaged deed, executed and registered in favour of the Bank at Annexure-6 in the opinion of the Court, is entirely different.

7. As such, taking into account the undertaking given by learned counsel for the Bank that the Bank shall not touch the property claim by the petitioners as described in Annexure-1 and Para 5 of the writ petition and shall not go beyond the property as mentioned in the possession notice as well as the registered deed, this writ petition is disposed with a direction that the Bank shall not go beyond the property which was mortgaged by the borrower/guarantor and shall confine the SARFAESI proceeding on the property described in the mortgage deed.

8. With the aforesaid direction, this writ application stands disposed of.

(Anil Kumar Sinha, J)

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