IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10641 of 2025

M/s. Namah Shivay Traders through its Proprietors, Bada Nand Tiwari, S/o Late Siddh Nath Tiwari, R/o Housing Colony, Chandwa More, Ara, Bhojpur, Pin- 802301.

... ... Petitioner/s

Versus

1. The Chief Manager Punjab National Bank, Head Office- Plot No.-4, Sector-10, Dwarka, New Delhi- 110075.
2. The Chief Manager, Punjab National Bank, Ara Hotel Regal, 2nd Floor, Bhojpur, 802301.
3. The Branch Manager, Punjab National Bank, Branch Chowk, Ara, Bhojpur.
4. The Authorised Officer, Punjab National Bank, Bhojpur, Ara.
5. Narayan Kumar Tiwari S/o Siddha Nath Tiwari, Gurrantor and R/o Housing Colony, Chandwa More, Chandwa, Ara, Bhojpur.
6. Vivekanand Tiwari S/o Siddha Nath Tiwari, Gurrantor and R/o Housing Colony, Chandwa More, Chandwa, Ara, Bhojpur.
7. Ashok Tiwari S/o Siddha Nath Tiwari, Gurrantor and R/o Housing Colony, Chandwa More, Chandwa, Ara, Bhojpur.
8. Kusum Devi W/o Siddha Nath Tiwari, Gurrantor and R/o Housing Colony, Chandwa More, Chandwa, Ara, Bhojpur.

... ... Respondent/s

Appearance :
For the Petitioner/s : Mr.Rajendra Nath Sinha, Adv.
For the Respondent/s : Mr.Mritunjay Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

4 24-09-2025 Heard learned counsel for the parties.

2. The present writ petition has been filed by the petitioner for following relief(s):

(I) For directing the bank authorities to accept the amount and redeem the mortgage of the secured assets i.e. the house of of the petitioner in the interest of justice equity and good conscience.

(II) For direction to refund the amount to auction purchaser whom property of the petitioner was sold as it was done n absence of the petitioner who has participated and made highest bid subsequently property was sold not disclosed at all till date.

3. The Hon'ble Supreme Court in ***Celir LLP*** v. ***Bafna Motors(Mumbai) (P) Ltd. (2024) 2 SCC 1,*** has held as under;

"105. We summarise our final conclusion as under:

(i) 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.

(ii) The confirmation of sale by the Bank under Rule 9(2) of the Rules of 2002 invests the successful auction purchaser with a vested right to obtain a certificate of sale of the immovable property in form given in appendix (V) to the Rules i.e., in accordance with Rule 9(6) of the SARFAESI.

(iii) 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 Rules of 2002. In effect, the right of redemption available to the borrower under the present statutory regime is drastically curtailed and would be available only till the date of publication of the notice under Rule 9(1) of the Rules of 2002 and not till the completion of the sale or transfer of the secured asset in favour of the auction purchaser.

(iv) The Bank after having confirmed the sale under Rule 9(2) of the Rules of 2002 could not have withhold the sale certificate under Rule 9(6) of the Rules

of 2002 and enter into a private arrangement with a borrower.

(v) 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.

(vi) The two decisions of the Telangana High Court in the case of Concern Readymix (supra) and Amme Srisailam (supra) do not lay down the correct position of law. In the same way, the decision of the Punjab and Haryana High Court in the case of Pal Alloys (supra) also does not lay down the correction position of law.

(vii) The decision of the Andhra Pradesh High Court in Sri Sai Annadhatha Polymers (supra) and the decision of the Telangana High Court in the case of K.V.V. Prasad Rao Gupta (supra) lay down the correct position of law while interpreting the amended Section 13(8) of the SARFAESI Act."

4. Having regard to the above, this Court is not inclined to entertain the present writ petition.

5. Learned counsel appearing on behalf of the

petitioner has stated that the petitioner has initially approached the Debt Recovery Tribunal, Patna vide S.A. No. 66 of 2025. However, the Debt Recovery Tribunal, Patna vide order dated 23.07.2025 has dismissed the S.A. solely on the ground that the present writ petition is pending before this High Court. Learned counsel, therefore, seeks a direction from this Court to direct the Debt Recovery Tribunal, Patna to pass necessary orders if any application is filed by the petitioner seeking restoration of S.A. 66 of 2025.

6. Having regard to the above-made submissions, the present writ petition is disposed of granting liberty to the petitioner to approach the Debt Recovery Tribunal, Patna for setting aside the order dated 23.07.2025 by way of separate petition.

7. With the above direction, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

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