

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16713 of 2023

Prabhu Nath Singh Son of late Lakshuman Singh, Resident of village Muradabad, P.S.-Sasaram, District Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Finance, Bihar, Patna.
2. The Punjab National Bank, through its field General Manager, Main Branch (Patna), Bihar, Patna.
3. The Field General Manager, P.N.B., Main Branch Patna, Bihar, Patna.
4. The Assistance General Manager, P.N.B., Circle Head Office, Regal Complex, 3rd floor, G.M. Road, Arrah.
5. The Branch Manager, Punjab National Bank, Sasaram Branch Sasaram.
6. Authorised Officer, Punjab National Bank, Secured Creditor Aurangabad, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	None.
For the Respondent/s	:	Mr. Rishi Raj Sinha (SC 19).
For the Bank	:	Mr. Mritunjay Kumar, Advocate.
		Ms. Shilpi Singh, Advocate.
		Mr. Vibhuti Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

5 13-02-2025 Today when the matter is called out, there is no representation in behalf of the petitioner.

2. On 18.03.2024, the learned counsel appearing on behalf of the Respondent-Bank has stated that the matter has become infructuous as the auction was already conducted and the sale certificate issued to the purchaser.

3. The Hon'ble Supreme Court passed 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 stated legal position,
the present writ petition is **dismissed** as infructuous. However,



leaving it open to the petitioner to take appropriate steps, if he is
so advised, for setting aside the sale certificate before an
appropriate forum.

(A. Abhishek Reddy, J)

shakir/-

U			
---	--	--	--

