**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.3859 of 2025**

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Roshan Kumar, S/o Lalan Choudhary, R/o Ward No.- 23, Hanuman Chowk, Kasba, P.O.- Kasba Bazar, District- Purnia, Bihar- 854330.

... ... Petitioner/s

Versus

1. The UCO Bank through its Authorized Officer, Zonal Office, Begusarai, Sona Jageshwar Complex, Traffic Chowk, District- Begusarai, Bihar.
2. The Chief Manager, U.C.O. Bank, IOC Township Branch, Capasia Chowk, P.O.- Refinery Township, District- Begusarai, Bihar-851117.
3. The Zonal Manager, UCO Bank, Zonal Office, Sona Jageshwar Complex, Traffic Chowk, Begusarai, Bihar- 851101.
4. The Debt Recovery Tribunal, through its Chairperson, Patna, Bihar.

... ... Respondent/s

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**Appearance :**
For the Petitioner/s : Mr.Kumar Abhishek, Adv.
For the Respondent/s : Mr.Additional Solicitor General

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

5 07-05-2026 Heard learned counsel for the parties.

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

> *"a. Issuance of a direction, order or writ, including writ in the nature of Mandamus commanding/directing the concerned respondent authorities to issue the Certificate of Sale of the Properties bearing Khata No. 30, Khesra No. 142 (m), Thana No. 347, Area-8.5 Dhur (Title Deed No. 7603), Khata No. 30, Khesra No. 142, Thana No. 347, Area- 8.5 Dhur (Title Deed No. 7604), Khata No. 30, Khesra No. 142, Thana No. 347, Area- 10*

*Dhur (Title Deed No.13533) and Khata No. 30, Khesra No. 142 (m), Thana No. 347, Area-10 Dhur (Title Deed No. 13534) in favor of the Petitioner, who acquired the said property through a e-auction held on 27.11.2024, conducted by the Authorized Officer, UCO Bank, Zonal Office, Begusarai.*

*b. Issuance of a direction, order or writ, including writ in the nature of Mandamus commanding/directing the concerned respondent authorities to deliver the physical possession of Properties bearing Khata No. 30, Khesm No. 142 (m), Thana No. 347, Area-8.5 Dhur (Title Deed No. 7603), Khata No. 30, Khesra No. 142, Thana No. 347, Area- 8.5 Dhur (Title Deed No. 7604), Khata No. 30, Khesra No. 142, Thana No. 347, Area 10 Dhur (Title Deed No.13533) and Khata No. 30, Khesra No. 42 (m), Thana No. 347, Area-10 Dhur (Title Deed No. 13534) to the Petitioner without any undue delay.*

*c. Issuance of a direction, order or writ, including writ in the nature of Mandamus commanding/directing the concerned respondent authorities to provide adequate compensation to the Petitioner for causing mental agony and distress.*

*d. Any other relief/reliefs that the*

*Petitioner may be found to be entitled to in the facts and circumstances of the present case.”*

3. Learned counsel appearing on behalf of the petitioner submits that, pursuant to the advertisement issued by the Respondent-Bank, the petitioner has participated in the auction and being the highest bidder the sale was knocked in his favour. Learned counsel submits that subsequently the petitioner has deposited the entire sale auction amount. However the Respondent-Bank till date has not issued the sale certificate nor handed over the physical possession of the subject property to the petitioner. Learned counsel submits that the matter is squarely covered by the Judgment of the Hon’ble Supreme Court in a case of ***Celir LLP versus Bafna Motors (Mumbai) Private Ltd. and Others*** reported in ***(2024) 2 SCC 1***. Learned counsel therefore seeks a direction from this Hon’ble Court to direct to the Respondent-Bank to issue the sale certificate and also to hand over the physical possession of the subject property to the petitioner at the earliest.

4. Per contra, the learned counsel appearing on behalf of the Respondent-Bank has vehemently opposed the very maintainability of the writ petition. Learned counsel submits that the petitioner has impleaded the borrowers/

mortgager of the subject property in question. Further it is stated that the S.A. Case No. 309 of 2023 filed by the borrowers is pending before the Debts Recovery Tribunal, Patna. That the Debts Recovery Tribunal, Patna vide order dated 25.11.2024 has passed the interim order wherein the e-auction sale that took place on 27.11.2024, shall be subject to the final outcome of the S.A. Case No. 309 of 2023. Learned counsel submits that due to the interim orders passed by the Debts Recovery Tribunal, Patna, the Respondent-Bank is unable to issue the sale certificate and hand over the physical possession of the subject property to the petitioner. It is also stated that the petitioner is also a party to S.A. No. 309 of 2023 and therefore, the petitioner may be relegated to the Debts Recovery Tribunal, Patna, for availing the remedies as available to him under the law, i.e., for issuance of sale certificate for seeking physical possession of the subject property.

5. Admittedly, in the present case, the facts are not in dispute. The only question that arises for consideration is as to whether the bank which has conducted the auction can refuse to hand over the physical possession of the property to the petitioner solely on the ground that S.A. No. 309 of 2023 is pending before the Debts Recovery Tribunal, Patna. It is no

doubt true that the Debts Recovery Tribunal, Patna has observed that if any e-auction sale takes place, the same shall be subject to the final outcome of the S.A. pending before it, but with all due respect to the learned Senior Counsel appearing on behalf of the Respondent-Bank the said stand is totally erroneous, unless and until there is any stay order restraining the Respondent-Bank from issuing the sale certificate and handing over the physical possession of the subject property, the authorities cannot avoid their responsibility of issuing the sale certificate and handing over the physical possession of the subject property to the petitioner. The Respondent-Bank, having conducted the auction and realized the full sale consideration from the petitioner, cannot refrain from issuing the sale certificate and handing over the physical possession of the subject property solely on the ground that the matter is sub judice before the Debts Recovery Tribunal, Patna. The Hon’ble Supreme Court in a case of ***Celir LLP versus Bafna Motors (Mumbai) Private Ltd. and Others*** reported in ***(2024) 2 SCC 1*** has held as under:-

> *“103. It is an admitted fact that the entire bid amount was paid by the auction-purchaser as observed at SCC OnLine Bom para 10 of the impugned order*[2]*. Thus, the Bank was legally bound to issue the sale certificate as per the language of Rule 9(6)*

*of the 2002 Rules. The said provision employs the phrase "shall". Thus, it is an instance of mandatory provision. There is nothing more in the realm of law that the auction-purchaser can do once he has made the entire payment to the Bank. The fact that the respondent Bank failed to issue the sale certificate raises serious concerns, when there was no stay by any competent forum. Even otherwise the general conduct of the respondent Bank has not been satisfactory. Once the entire bid price is paid and there is no stay granted by any forum known to law, the Bank is duty-bound to issue a valid sale certificate and hand over the physical possession of the secured asset to the auction-purchaser."*

6. Further at paras 110, 110.1, 110.2, 110.3, 110.4, 110.5, 110.6 and 110.7, it has held as under:-

*"110. We summarise our final conclusion as under:*

*110.1. 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 aiternative remedy available to them under Section 17 of the SARFAESI Act.*

***110.2. The confirmation of sale by the***

***Bank under Rule 9(2) of the 2002 Rules invests the successful auction-purchaser with a vested right to obtain a certificate of sale of the immovable property in the form given in Appendix V to the Rules i.e. in accordance with Rule 9(6) of the Security Interest (Enforcement) Rules, 2002****.*

*110.3. 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 2002 Rules. 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 2002 Rules and not till the completion of the sale or transfer of the secured asset in favour of the auction-purchaser.*

*110.4. The Bank after having confirmed the sale under Rule 9(2) of the 2002 Rules could not have withheld the sale certificate under Rule 9(6) of the 2002 Rules, and entered into a private arrangement with a borrower.*

*110.5. 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.*

*110.6. The two decisions of the Telangana High Court in Concern Readymix[11] and Amme Srisailam[1] do not lay down the correct position of law. In the same way, the decision of the Punjab and Haryana High Court in Pal Alloys 13 also does not lay down the correction position of law.*

*110.7. The decision of the Andhra Pradesh High Court in Sri Sai Annadhatha Polymers 22 and the decision of the Telangana High Court in K. V. V. Prasad Rao Gupta 25 lay down the correct position of law while interpreting the amended Section 13(8) of the SARFAESI Act.*

7. Having regard to the above, the present writ petition is allowed. The Respondent-Bank is directed to hand over the certificate of sale in favour of the petitioner and also the physical possession of the subject property as expeditiously as possibly preferably within a period of 8 weeks from the date of receipt of a copy of this order. It is made clear that the handing over the physical possession of the subject property and sale certificate in favour of the petitioner shall be subject to the final outcome of S.A. 309 of 2023. The Respondent-Bank shall forthwith file an application under Section 14 of the SARFAESI Act before the concerned District Magistrate for taking physical possession of the subject property and handing over the same to the petitioner.

8. Accordingly, the present writ petition stands allowed to the extent indicated above.

**(A. Abhishek Reddy , J)**

Bhardwaj/-

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