

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.559 of 2026

In

Civil Writ Jurisdiction Case No.8228 of 2026

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1. Syed Aquil Abbas @ Syed Aquil Abbas Naqvi (Attorney Holder), Son of Late Syed Gulam Abbas Naquvi, Resident of Mohalla- Nauzer Katra, P.S. Khajekala, Patna City, Patna, Pin-800008.
 2. Sanobar Hussain Reshty, Wife of Taqi Reshty, Resident of 5, Cunnings Avenue, Pemulouy, NSW 2145 Australia.
 3. Farah Hussain Bardai @ Farah Bardai, Wife of Anwar Bardai, Resident of 118, Maple Street, Needham, MA 02492 United State of America.

... .. Appellant/s

Versus

1. The State of Bihar through the Collector-cum-District Magistrate, Patna.
2. The Sub-Divisional Officer, Patna Sadar, Patna.
3. The Axis Bank Ltd., Having its registered office at Trishul, 3rd Floor, Opposite- Samartheshwar Temple, near Law Garden, Ellis Bridge, Ahmedabad- 380006 through its Chairman -cum- Managing Director.
4. The Stressed Assets Recovery Cell, East, Axis Bank Ltd. through the Authorized Officer, 1, Shakespeare Sarani, 3rd Floor, A.C. Market Building, Kolkata- 700079.
5. The Branch Manager In-charge, Axis Bank Ltd., SME Bank Ltd., SME Branch, Kamini Palace, Patna- 800013.
6. Zakir Hussain, Son of Late Wazir Hussain Khan, Resident of 68, South Gandhi Nagar, Boring Road, Patna-800001.
7. Fatema Hussain, Wife of Zakir Hussain, Resident of 68, South Gandhi Nagar, Boring Road, Patna-800001.
8. Nastaran Hasan, Wife of Dr. Kausar Hasan, Resident of E-4/1, Maymar Drive, Rashid Minhas Road, Gulshan -e-Iqbal, Block - 10, Karachi, Pakistan.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pratyush Anand, Advocate
Ms. Anu Priyadarshni, Advocate
For the State : Mr. Somesh Kumar Singh, AAG-13

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-07-2026



It is pointed out by learned counsel for the appellants that there is no error in the stamp reporting regarding Defect No. 73, as Respondent No. 7 was a party in the Writ Petition before the learned Single Bench, hence no defect arises.

2. The instant Letters Patent Appeals assails the order dated 17.06.2026 in C.W.J.C. No. 8228 of 2026, whereby the learned Single Judge disposed of the Writ Petition at the stage of admission with the consent of both learned counsel. The dispute between the appellants and the private respondents (siblings), pivots around the joint family property situated at Patna and a Flat in New Delhi, originally purchased by the father of the appellants and the private respondents. In this context, a Title Suit No. 284 of 2010 is pending before the Civil Court, wherein the appellants have sought 60% share of the properties. By filing the Writ Petition (supra), the appellants herein sought the setting aside of the order dated 04.04.2026, issued by the Sub-Divisional Officer, Patna, under the "SARFAESI Act", 2002, from taking possession of the joint family properties, mortgaged to the Axis Bank by the Private Respondent Nos. 6 and 7 against the loan availed by them. In Misc. Appeal No. 641 of 2017 arising out of the Partition Suit, a bench of this High Court had issued an *ad-interim* injunction on 09.10.2018, restraining the Private Respondents from alienating or changing the nature of, or creating



encumbrances over the joint property.

3. On the prayer of the learned counsel for the appellants, the application for stay being I.A. No. 01 of 2026 is taken up for hearing.

4. The prayer of the appellants in the Stay Petition is to allow the Interlocutory Application and restrain the respondents from taking any coercive steps against the dwelling house of the appellants pursuant to notice, dated 04.04.2026, under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “SARFAESI Act”), which was wrongly mortgaged by the private respondents.

5. Appellant No. 1 in the Letters Patent Appeal is the Power of Attorney holder for Appellant Nos. 2 and 3.

6. Learned counsel for the appellants submits that, the appellants are affected by the acts of their brothers and Title Partition Suit No. 284 of 2016 is pending before the Sub-Judge- VIII, Patna. That, despite an *ad interim* injunction on 09.10.2018 issued by this High Court, restraining the respondents from alienating the property in question to anyone and confirming the injunction on 15.07.2019, the private respondents have mutated the property amongst themselves and mortgaged the property with the AXIS Bank (Respondent Nos. 3, 4 and 5). That in such circumstances, the AXIS Bank (Respondent Nos. 3, 4 and 5) is now seeking to take possession of the ancestral



house of the appellants. Learned counsel for the appellants submits that in view of the above facts, injunction be granted by this Court against the AXIS Bank from taking possession of the dwelling house or from taking any other coercive measures.

7. None appears for the AXIS Bank. We have given due consideration to the submissions advanced by learned counsel for the appellants and learned counsel for State respondents who submits that he has no specific arguments to put forth as it is a private dispute.

8. We have also perused all averments, documents on record and the impugned order of the learned Single Judge, dated 17.06.2026, which *inter alia* provides that the Writ Petition being CWJC No. 8228 of 2026 is disposed of at the stage of admission "*with the consent of both the counsels*". It was also recorded that, having regard to the fact that the petitioner has an alternative and efficacious remedy of approaching the DRT, Patna, under Section 17 of the SARFAESI Act, the Court did not entertain the Writ Petition, which was disposed of granting liberty to the petitioner to approach the DRT, Patna, if so advised.

9. It is relevant to consider that the impugned order was passed with the consent of learned counsel for both the parties and hence at this juncture, the appellants cannot cry foul after giving consent. Besides, we are also inclined to take into consideration Section 34 of the



SARFAESI Act, which provides *inter alia* that no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993). We have taken note of the fact, as correctly recorded by the learned Single Judge in the impugned order that, Section 17 provides respite, also to a third party, to appear before the DRT and put forth their grievances for redressal.

10. In such circumstances, we are not inclined to grant the prayers put forth before this Court today. The appellants may approach the DRT within thirty days from the date of uploading of Judgment.

11. The Stay Petition, being I.A. No. 01 of 2026, stands disposed of accordingly as also the instant Letters Patent Appeal No. 559 of 2026.

(Meenakshi Madan Rai, CJ)

(Soni Shrivastava, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	08.07.2026
Transmission Date	

