IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18212 of 2025

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Aashi Sinha @ Ashi Sinha, W/o Pankaj Kumar, R/o-Sumati Path, Rani Ghat, Near Bishwa Hindu Parishad, Mahendru, Patna.

... ... Petitioner/s

Versus

1. The Chairman, Bank of Baroda Head Office, 7th Floor, R.C. Dutt Road, Baroda, Gujrat.
2. The General Manager, Bank of Baroda, Head Office, Baroda Bhawan, R.C. Dutt Road, Alkapuri, Baroda, Gujrat.
3. The Deputy General Manager, Bank of Baroda, Anand Vihar, 4th Floor, West Boring Canal Road, Patna-800001.
4. The Branch Manager, Bank of Baroda, Gulzarbagh Branch, Patna City, Patna.
5. M/s Regency Footwear through its Proprietor namely Md. Sahnawaz Alam, S/o Late Nazre Alam @ Mohd. Nazre Alam Ansari, R/o Ward No. -60, Mogalpura Barkat Khan Ka Akhara, Lal Mandir between Masjid, P.O.- Jhauganj, P.S.-Khajakalan, Distt-Patna-800008.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Chandra Shekhar Singh, Adv.
For the Respondent/s	:	Mr.Vivek Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

5 02-07-2026 Heard learned counsel for the parties.

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

"i) For issuance of a direction in the name of respondents to deliver the possession of auction property situated at LB-21, Dumraon Palace, Ward No- 2, MS Plot No-53,59,60 Holding No-206/51A/LB/002, Khata No-23/1, Thana No-137, Tauzi No- 205, Mauza-Moharrampur, Chogowan, Pargana-Haweli Azimabad, Post-GPO, P.S- Kotwali Circle no- 6, Fraser Road,

> *Patna-800001 which she has purchased in an auction published by Bank of Baroda for the said entire bid amount Rs.26,50,000/- has already been paid long back in the year 2021 but still possession has not been delivered to her.*
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> *(ii) Further alternatively prays that if the possession is not being delivered then direction may kindly be issued to return the amount Rs.26,50,000/- paid by the petitioner to the Bank Of Baroda along with 12% interest from the date of receiving and damages.."*

3. Learned counsel appearing on behalf of the petitioner submits that, subsequent to the purchase of the subject property by the petitioner in the auction conducted by the Respondent-Bank, the petitioner has deposited the entire sale consideration and is awaiting delivery of possession. Learned counsel submits that though the auction was conducted in the year 2021, the authorities, on one pretext or another, have failed to hand over physical possession of the subject property to the petitioner, despite the lapse of more than five years. Learned counsel submits that left with no other option the petitioner has approached this Hon'ble Court by way of the present writ petition. Learned counsel has therefore prayed this Hon'ble Court to direct the Respondent-Bank to see that the physical

possession is handed over to the petitioner.

4. Learned counsel appearing on behalf of the Respondent-Bank submits that, initially due to the operation of the stay granted by the Debt Recovery Tribunal, Patna in S.A. No. 41 of 2021, the Respondent-Bank could not hand over the physical possession of the subject property. It is further submitted that S.A. No. 41 of 2021 was subsequently dismissed on 06.12.2023. Thereafter, the authorities have addressed a letter to the District Magistrate office to take the physical possession of the subject property and are awaiting a response from the District Magistrate.

5. Learned counsel appearing on behalf of the Respondent No. 5 submits that as against the dismissal of the S.A. No. 41 of 2021 by the Debt Recovery Tribunal, Patna, the Respondent No. 5 has preferred a statutory appeal bearing Regular Appeal No. 55 of 2024 before the Debt Recovery Appellate Tribunal, Allahabad and the same is pending adjudication. Learned counsel submits that the authorities may be directed not to take the physical possession of the subject property pending the adjudication of the Regular Appeal No. 55 of 2024 filed by the Respondent No. 5.

6. The Hon’ble Supreme Court in the case of

Balkrishna Rama Tarle Dead through legal representatives and Anr. Versus *Phonix ARC Private Limited and Ors.* reported in *(2023) 1 Supreme Court Cases 662*, whereby the Hon'ble Supreme Court has held as under:-

> "**15.** On a fair reading of Section 14 of the SARFAESI Act, it appears that for taking possession of the secured assets in terms of Section 14(1) of the SARFAESI Act, the secured creditor is obliged to approach the District Magistrate/Chief Metropolitan Magistrate by way of a written application requesting for taking possession of the secured assets and documents relating thereto and for being forwarded to it (secured creditor) for further action.
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> **16.** The statutory obligation enjoined upon the CMM/DM is to immediately move into action after receipt of a written application under Section 14(1) of the SARFAESI Act from the secured creditor for that purpose. As soon as such an application is received, the CMM/DM is expected to pass an order after verification of compliance of all formalities by the secured creditor referred to in the proviso in Section 14(1) of the SARFAESI Act and after being satisfied in that regard, to take possession of the secured assets and documents relating thereto and to forward the same to the secured creditor at the earliest opportunity. As observed and held by this Court in *NKGSB Coop. Bank Ltd.* v. *Subir Chakravarty* [*NKGSB Coop. Bank Ltd.* v. *Subir Chakravarty*, (2022) 10 SCC 286 : (2023) 1 SCC (Cri) 157] , the aforesaid act is a ministerial act. It cannot brook delay. Time is of the essence and this

> is the spirit of the special enactment.
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> **18.** Thus, the powers exercisable by CMM/DM under Section 14 of the SARFAESI Act are ministerial steps and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. In that view of the matter once all the requirements under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/or with the help of an advocate appointed as Advocate Commissioner. At that stage, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets and the aggrieved party to be relegated to raise objections in the proceedings under Section 17 of the SARFAESI Act, before the Debts Recovery Tribunal.

7. Having regard to the same, the District Magistrate is directed to process the application made by the Respondent-Bank under Section 14 of SARFAESI Act at the earliest and hand over the physical possession to the Bank. Once the physical possession is taken by the Bank, the petitioner shall be put in possession of the auctioned property. It is made clear that

the handing over of physical possession of the subject property to the petitioner shall be subject to the final order that may be passed by the Debt Recovery Appellate Tribunal, Allahabad, in Regular Appeal No. 55 of 2024. The entire exercise shall be completed as expeditiously as possible preferably within a period of 8 weeks from the date of receipt of a copy of this order.

8. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

Bhardwaj/-

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