

(2022) 11 PAT CK 0076

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 10058 Of 2018, 15529 Of 2021

Mananjay Kumar Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 22-11-2022

Acts Referred:

Security Interest (Enforcement) Rules, 2002 — Rule 6(2), 8, 8(6)
Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 — Section 13(4)

Citation : (2022) 11 PAT CK 0076

Hon'ble Judges : Sanjay Karol, CJ; Partha Sarthy, J

Bench : Division Bench

Advocate : Uday Pratap Singh, Anuradha Singh, Manoj Kumar

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

In CWJC No.15529 of 2021 petitioner has prayed for the following relief(s):-

“(i) For issuance of writ in the nature of certiorari or any other appropriate writ, direction for setting aside letter dated 4.8.2021 u/s Rule 6(2) and/or Rule 8(6) of the security interest (enforcement) Rules, 2002 of SARFAESI Act 2002 whereby and where under sale of Property has been fixed for auction sale on 18.08.21 or any other further notice for of E auction sale in this regard into with regard to property bearing plot no. 111, Khata no. 29, Tahna no. 654, registered vide sale deed no. 4180 in the name of petitioner (Mananjay Singh) area 4.5625 decimal

(ii) For issuance of writ in the nature of certiorari or any other appropriate writ, direction for setting aside the possession notice dated on 19.4.21 under section 13(4) of Sarfesi Act 2002 red with Rule 8 of the Security Interest Enforcement Rules, 2002 whereby and where under property changed to the Bank of Baroda has taken possession of the property as mentioned in the notice itself.

(iii) For issuance of writ in the nature of mandamus or any other appropriate

writ/ direction to the respondent particularly respondent no. 1 not to disturb the possession of petitioner from its actual physical possession situated at Mauza Bajarkona, thana no. 654 Khata no. 29, plot no. 111, Anchal Kudra, P.S. Kudra, Distt. Kaimur bearing Registered sale deed no. 4180 dated 09.05.2011 in the name of Sri Mananjay Kumar Singh son of Sri Mahendra Prasad Singh who happen to be guarantor to M/s Maa Mundeshwari Traders of Pro Mrs. Renu devi and against her SARFAESI Act Proceeding has been stayed by his hon'ble court vide order dated 16.05.2018 passed in CWJC No. 10058/2018.

(iv) For issuance of any other appropriate writ and direction as may deem fit and proper in this case for which the petitioner is otherwise entitled."

In CWJC No. 10058 of 2018 petitioner has prayed for the following relief(s):-

"i. For issuance of writ in the nature of certiorari or any other appropriate writ, direction for setting aside the possession notice dated on 6.4. 2018 under Section 13 (4) of Sarfaesi Act 2002 read with Rule 8 of the Security Interest Enforcement Rules, 2002 whereby and where under property changed to the Bank of Baroda has taken possession of the property as mentioned in the notice itself.

ii. For issuance of writ in the nature of mandamus or any other appropriate writ/ direction to the respondent particularly respondent no. 1 not oust the real owner of property from its actual physical possession situated at Mauza- Bajarkona, thana No. 654, Khata No. 29, plot no. 111, Anchal Kudra, P.S. Kudra, Distt Kaimur bearing Registered sale deed no. 4180 dated 09.05.2011 in the name of Sri Mananjay Kumar Singh son of Sri Mahendra Prasad Sigh.

iii. For issuance of any other appropriate writ and direction as may deem fit and proper in this case for which the petitioner is otherwise entitled."

In view of the fact that Debts Recovery Tribunal is now functional, learned counsel for the petitioners, under instructions, seeks permission to withdraw the present petitions reserving liberty to take recourse to such other appropriate remedies, as are otherwise available, in accordance with law.

Permission granted.

As and when any such request is made by the petitioners before the Tribunal or the respondent-bank, the same shall be considered and decided expeditiously.

If the petitioners were to approach the Tribunal within a period of four weeks from today, the issue of limitation, as is so stated across the bar, is not allowed to come in the way.

The petitions stand disposed of as withdrawn with the liberty aforesaid.

Interlocutory application(s), if any, shall also stand disposed of.