DEBTS RECOVERY TRIBUNAL PATNA

Presiding Officer : Shri Kaushalendra Yadav

SA- 189 of 2025

1. **M/s Kanak Automobiles,** through its proprietor – Sanajy Kumar, Mahatama Gandi Setu Road Jadhua, Near Om Sai Petrol Pump, P.S. Hajipur Industrial Area, Vaishali, Hajipur – 844101. (Borrower).

2. Sanjay Kumar, S/o Bhagwan Prasad Sinha, Kanak Niwas, House No. 65, Road No.2, Rajpur Nagar, Hajipur – 844101. Pan No. APCPS7070K. (Mortgagor/Guarantor).

.....Applicants

Versus

1. The Branch Manager, SME Branch, Hajipur.
2. The Authorized Officer, Canara Bank, Asset Recovery Management Branch, Ground Floor, Luv Kush Tower, Exhibition Road, Patna – 800001.
3. **Sonam Priya,** W/o Pranav Aman, Address : House No.208A, Distt. – Vaishali, Pen – 844101.

--respondents

Present:

For the Applicants	: Mrs. Gunja, Advocate
For the Respondent Bank	: Sh. Anurag Kumar, Advocate
For the Auction Purchaser	: Sh. Anjani Kr. Singh, Advocate

Dated: 15.10.2026

JUDGMENT

1. Present application has been filed with a prayer to quash the entire SARFAESI Action initiated against the applicants including auction Sale notice dated 27.05.2025 issued against the property in question.

2. During pendency of the SA, the applicant filed IA 753/2025 with the prayer to stay the action for physical dispossession from the property initiated by respondent bank. Further, IA 770/2025 has been filed to quash the e-auction notice dated 10.07.2025 issued by the respondent

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Bank.

3. The brief fact of the case is that the applicants availed Overdraft facility to the tune of Rs.15 lacs and Term Loan facility to the tune of Rs.15 from the respondent Bank. To secure the loan facilities, the applicant mortgaged his property with the respondent Bank. Due to default in repayment of dues of the bank, the account was classified as NPA on 04.11.2024. In order to recover the outstanding dues, the respondent bank initiated SARFAESI action against the borrowers and guarantors by issuing Demand Notice dated 05.11.2024 u/s 13(2) of the act calling upon the borrowers to make the payment of Rs.46,81,052.34. Thereafter, the respondent took possession of the property by issuing Possession Notice dated 01.02.2025 u/s 13(4) of the SARFAESI Act. Further, the respondent Bank issued redemption notice under section 13(8) of the Act. Thereafter, respondent Bank put the property on auction sale by issuing an auction sale notice dated 27.05.2025 fixing the date of auction sale on 10.07.2025. Aggrieved from the auction sale notice, the present SA has been filed by the applicants.

4. It is submitted by the Ld. Counsel of applicant that the respondent Bank illegally declared the account as NPA and outstanding as Rs.46,81,052.34/- is against the provision of section 2(1)(o) of SARFAESI Act. Furthermore, the account was classified as NPA before the completion of 90 days violating the guidelines of RBI. The respondent Bank issued Demand Notice dated 05.11.2024 without complying the section 13(3) of the Act as no breakup of actual outstanding, accrued rate of interest, penal interest has been disclosed in the Demand Notice. Furthermore, the Demand Notice was not served upon applicant no.2. The respondent Bank proceeded under Section 13(4) for taking symbolic possession of the property by issuing Possession Notice dated 01.02.2025 but before the service of Possession Notice upon the applicants, the respondent Bank published the same in the newspaper which is in violation of Rule 8(1). The possession notice has not been served upon applicant no.2. The particulars of the borrower

have also wrongly been mentioned in the possession notice. The Sale Notice dated 27.05.2025 has not been served upon applicants. In the said sale notice without disclosing the specific detailed terms and conditions, including: (a) The description of the immovable property and known encumbrance, (b) The Secured debt for which the property is being sold, (d) The earnest money deposit (EMD) and, by implication, the account details for payment, and also violation of Rule 9(2), (3) &9(4), published in the newspaper. Before putting the property on auction sale, no valuation of the property was obtained by the respondent Bank; neither copy of valuation has been provided to the applicant. In the sale notice reserve price has been fixed on the very lower side while the govt. The value of the property is Rs.66.99 lacs and market value of the property is Rs.97.20 lacs. The property has also not been registered with CERSAI. Whether the auction purchaser has deposited the auction amount within time or not, not known to the applicants as neither the respondent Bank nor the auction purchaser filed any statement of account for proof of payment of auction amount. The auction purchaser in counter affidavit annexed the copy of challan to prove the payment of 25% of auction amount but as per terms & condition, the participants are required to open and deposit the amount in a global EMD wallet vide which the agency adjust the amount of bidder.

5. On the contrary, ld. Counsel of the respondent bank submits that the loan accounts of the applicant were classified as NPA on 04.11.2024. Subsequently, the respondent bank initiated SARFAESI Action and issued Demand Notice under section 13(2) dated 05.11.2024 against borrower & guarantor calling upon outstanding dues of the Bank and the same was sent to the applicants through registered post on 05.11.2024. The Demand Notice was also published in "Dainik Jagran" and "The Hindu" newspaper on 29.11.2024. Since, the borrower failed to repay the outstanding dues of the bank, therefore the respondent bank took possession of the property by issuing Possession Notice dated 01.02.2025 and affixed on the secured asset and also sent to the applicant through registered post on 05.02.2025. The Possession Notice

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was also published in "Prabhat Khabar" and "The Hindu" on 05.02.2025. Thereafter, the respondent Bank issued redemption notice dated 26.02.2025 under section 13(8) of the Act and sent to the applicant through registered post on 06.03.2025 & 07.03.2025 and also published in "Prabhat Khabar" and "The Hindu" on 06.03.2025. Thereafter, respondent Bank obtained valuation report of the property from its approved valuer on 29.06.2024. Accordingly, fixed the reserve price of the property by issuing auction sale notice dated 27.05.2025. The said sale notice was affixed on secured asset and also sent to applicants through registered post on 29.05.2025. Further, the sale notice was also published in "Dainik Bhaskar" and "Indian Express". However, vide order dated 09.07.2025, this Tribunal has given an opportunity to deposit 25% of notice amount before the time fixed for auction sale and on deposit of such amount, the respondent Bank will not confirm the auction sale but S. applicants intentionally & deliberately deposited the amount of Rs.12 lacs after about 03:57 PM while the bidding time was from 11:00 AM to 01:00 PM on 10.07.2025. Hence, the sale was conducted on 10.07.2025 and Sonam Priya emerged as the successful bidder who deposited 25% of the bid amount within time The Sale was confirmed on 25.07.2025. Further, the auction purchaser deposited the remaining 75% amount by 28.07.2025. Hence, the Sale Certificate has been issued in favor of the auction purchaser on the same day. The property was also registered with CERSAI on 13.07.2021.

6. Ld. Counsel of the auction purchaser submitted that upon publication of E-auction sale notice in "Dainik Bhaskar" dated 01.06.2025, the auction purchaser participated in the auction sale held on 10.07.2025 and being declared highest bidder with the bid of Rs.65.30 lacs. Accordingly, the auction purchaser deposited a further 15% of the bid amount on the very next date and requested the Bank for issuance of Confirmation of sale. The respondent Bank showed inability to issue a confirmation letter due to conditional stay granted by this Tribunal in the matter. However, on 25.07.2025 the respondent bank issued a letter of confirmation in favour of the auction purchaser. Thereafter, the auction purchaser deposited

the rest 75% of the auction amount by 28.07.2025. Further, the respondent Bank issued Sale Certification in favour of auction purchaser on 28.07.2025. The physical possession of the property has not been handed over to the auction purchaser till date. Hence, the delay may be compensated.

7. I have heard Ld. Counsel for the parties and gone through the record.

8. **It has been alleged that** the respondent Bank illegally declared the account as NPA before the completion of 90 days, violating the guidelines of RBI. No breakup of actual outstanding, accrued rate of interest, penal interest has been disclosed in the Demand Notice.

9. On perusal of records it appears that the account of the borrower was declared as NPA on 04.11.2024. Subsequently, the respondent bank issued Demand Notice under section 13(2) dated 05.11.2024 against the applicants and the same was sent to the applicants through post on 05.11.2024 as appears from the postal receipt annexed with counter affidavit as annexure R/1 (series), page 22 and to prove the delivery, the respondent bank annexed the copy of tracking report as annexure R/1 (series), page 23, which shows that the item was delivered upon applicant no. 2 on 09.11.2024. Apart from this, the Demand Notice was also published in two newspapers as evident from the copy of publication annexed with a counter affidavit. In the said demand notice the respondent Bank disclosed the Loan Account number, Nature of Limit, Liability with interest as on date of NPA and Rate of Interest. But the applicants did not raise any objection if any, against the Demand Notice

10. It is further alleged that prior to service of Possession Notice upon applicant no.1, the respondent Bank published the same in the newspaper which is a violation of Rule 8(1). The Possession Notice has not been served upon applicant no.2. The particulars of the borrower have also wrongly been mentioned in the possession notice.

11. On further perusal of record it appears that the respondent bank issued

Possession Notice dated 01.02.2025 and affixed on the secured asset and also sent to the applicant through registered post on 05.02.2025 as appears from the annexure – R/02 (series), page 29. It has been alleged in para 6 of supplementary affidavit that the possession notice was not served upon applicant no.2. Though no tracking report has been filed but at the same time the service of notice is not denied on applicant No. 1. As such, it makes no difference when the applicant No.1, a proprietorship firm is represented by applicant No.2 himself. To prove the publication of possession notice in newspaper, the respondent bank annexed the copy of publication as annexure R/2(series), page 31-32 with counter affidavit which shows that the Possession Notice was published in "Prabhat Khabar" and "The Hindu" on 05.02.2025

12. It is also alleged that the Sale Notice dated 27.05.2025 has not been served upon applicants. In the sale notice the specific detailed terms and conditions, the description of the immovable property, the Secured debt for which the property is being sold, the earnest money deposit (EMD) and, by implication, the account details for payment, have not been disclosed while publishing in the newspaper. Before putting the property on auction sale, no valuation of the property was obtained by the respondent Bank. Reserve price has been fixed on a very lower side than the market value of the property. The property has also not been registered with CERSAI. The auction purchaser has not deposited the auction amount within time. The auction purchaser deposited the bid amount through challan but as per terms & conditions, he has to deposit the amount the same through a global EMD wallet which shows connivance between bank and auction purchaser.

13. On perusal of records it appears that the respondent bank issued Redemption Notice dated 26.02.2025 under section 13(8) of the Act and sent to the applicants through post. Apart from this, the respondent Bank also published the Redemption Notice in the newspaper. Thereafter, obtained valuation of the property vide valuation report dated 29.06.2024 from its approved valuer. Accordingly, property was

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put on auction sale by issuing Sale Notice dated 27.05.2025 fixing the date of auction sale as 10.07.2025. In the said sale notice various terms & conditions were laid down by the Bank. Although the valuation was done prior to the period of six months from the sale notice, but to prove the undervaluation, no counter valuation of the property has been filed by the applicant. As such there is no sufficient evidence to prove substantial inadequate sale consideration. This ground alone is not sufficient to set aside the settled sale unless any fraud collusion or substantial inadequate consideration is proved.

14. The said sale notice was affixed on secured asset and also sent to the applicants through post on as appears from the postal receipt filed with counter affidavit as annexure R/5 (series), page 58. To prove the delivery of sale notice, the respondent bank annexed the copy of tracking report as annexure R/5 (series), page 59-61, which shows that sale notice was delivered upon applicant no.2 "Sanjay Kumar" while the sale notice sent to applicant no.1, was returned back to "Sender". It makes no difference when the proprietorship firm is represented by applicant No.2 himself. The Sale Notice was published in "Dainik Bhaskar" and "Indian Express" on 01.06.2025.

15. In pursuance of sale notice dated 27.05.2025, the sale was conducted on 10.07.2025. Sonam Priya W/o Sri Pranav Aman was declared highest bidder with the amount of Rs.65.30 lacs. She has deposited Rs.6.52 lacs on 09.07.2025 towards EMD. Further, Rs.9.80 lacs on 11.07.2025. Further, Rs.48,97,500/- on 28.07.2025 as the sale was confirmed on 25.07.2025. The confirmation was delayed due to intervention of this Tribunal vide order dated 09.07.2025 that "in case the applicant pays 25% of the notice amount before the time fixed for auction sale, the respondent will not confirm the auction sale if it takes place till next date. After depositing the aforesaid 25% of the notice amount, the applicant may submit an offer for settlement with the respondent bank in writing within 07 days and the respondent will take decision thereupon as per the policy of the bank within one month under

intimation to the applicant and this Tribunal." It was also observed that "In case the applicant fails to pay the aforesaid 25% amount, the respondent will be free to take legal action against the applicant." Since, the applicants failed to comply with the said order within the stipulated period.

16. So far the allegation of applicants that before service of possession notice, the same was published in the newspaper, is not irregularity. If the publication will be kept on hold till delivery of post the mandate to publish within 7 days, may not be observed and the sender has no means to ensure delivery before that period. As such the postal dispatch of notice before publication will serve the purpose.

17. To prove the registration of property with CERSAI, the respondent Bank annexed the copy of registration with a counter affidavit as R/6, page 68 which shows that the property was registered with CERSAI vide Asset ID 200055281420.

13. In view of the above discussion, the applicant could not prove that the sale under challenge suffers from fraud, collusion or considerable inadequate consideration. As such the present application fails.

ORDER

The application SA 189 of 2025, is dismissed with costs. The Interlocutory application pending if any, will also stand disposed of.

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[KaushalendraYadav]
Presiding Officer
Debts Recovery Tribunal, Patna

Judgment signed, sealed, dated and pronounced in the open court on this 15TH Day of October, 2026.

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[KaushalendraYadav]
Presiding Officer
Debts Recovery Tribunal, Patna