IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7212 of 2017

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M/s Bombay Tent House Through Its Proprietor Md. Abdul Kayum S/o Late Md. Mostakim Resident of Mohalla - Mardahi, Ward No. - 19, Neemgali, P.O. and P.S. - Samastipur, District - Samastipur.

... ... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Finance Dept. Bihar, Patna
2. The District Magistrate, Samastipur.
3. The Central Bank of India through its Chairman and Managing Director, Chander Mukhi, P.S. - Nariman Point, Mumbai.
4. The Chairman and Managing Director, Central Bank of India, Chander Mukhi, P.S. - Nariman Point, Mumbai.
5. The Central Bank of India through its Zonal Manager, Zonal Office, Maurya Lok Complex, P.S. - Kotwali, District-Patna.
6. The Zonal Manager, Central Bank of India, Regional Office, Maurya Lok Complex, P.S. - Kotwali, District-Patna.
7. The Central Bank of India, through its Regional Manager, Regional Office, District - Samastipur.
8. The Regional Manager, Central Bank of India, Regional Office, District - Samastipur.
9. The Central Bank of India through its Branch Manager, Main Branch, Near Old Post Office, Samastipur
10. The Branch Manager, Central Bank of India, Main Branch, Near Old Post Office, Samastipur, P.O. and P.S.-Samastipur, Dist.-Samastipur.

... ... Respondents

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Appearance :

For the Petitioner	:	Mr. Ratnesh Kumar Singh, Advocate
For the Respondents	:	Mr. Smt.Anuradha Singh, SC21
For the Bank	:	Mr. Ajay Kumar Sinha, Sr. Advocate
	:	Mr. Pravin Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 10-08-2026

1. The Writ petition is filed for the following reliefs:

> *"(i). for quashing of order dated 15.04.2017 passed by Debt Recovery Tribunal for state of Bihar in Sarfaesi*

Appeal No. 178 of 2016 wherein Ld. Debt Recovery Tribunal has dismissed the Sarfaesi Appeal and upheld the order dated 31.08.2016 passed by the District Magistrate -cum- Collector, Samastipur passed in Sarfaesi Case No. 100/2015 regarding taking possession of residential house of the Petitioner constructed in admeasuring 06.50 Dhur, situated at Khata No. 1, Khesara No.- 261, Holding No.- 242, Ward No. 4, Thana No.- 179, Gali-Mulchand, Samastipur in ignorance of the fact that the Petitioner has deposited entire amount of Rs. 2,18,356.68 mentioned in above Sarfaesi Case pursuant to order dated 07.10.2016 passed by the Id. Debt Recover Tribunal, Patna.

(ii) direct the respondent to produce the statement of Cash on Credit Account no. 1606738545, Central Bank of India, Main Branch, Samastipur.

(iii) direct the respondents to return the registered deed of aforesaid premises."

2. The brief facts as culled out of the Writ petition are that the petitioner is a proprietorship firm carrying on business in the name and style of Bombay Tent House. Respondent No.3 is a Public

Limited Bank and respondent Nos.4 to 8 are officials of the said Bank. The petitioner opened CC Account No.1606738545 with the Central Bank of India, Main Branch, Samastipur, in the year 2002. The respondent-Bank did not issue any passbook or statement of account to the petitioner, and the petitioner had not received any notice from the respondent-Bank regarding the overdraft.

3. It appears from the order dated 03.08.2016 passed by the District Magistrate-cum-Collector, Samastipur, that the respondent-Bank had issued notice under Section 13(2) of the SARFAESI Act on 06.02.2014, demanding an amount of Rs.2,18,356.68/-. The petitioner got seriously ill in the year 2013 and had taken certain overdraft facilities, but the petitioner had been depositing the amount in the Bank. However, the money deposit receipts were lost. The Bank, in exercise of its power under Section 13(4) read with Section 8 of the SARFAESI Act, issued a possession notice dated 01.08.2014, asking the petitioner to deposit Rs.2,18,356.68/- along with interest. The possession notice was also published in the newspaper on

08.08.2014. The petitioner requested the Bank, in writing on 22.09.2014 that he was willing to pay the amount due to the Bank in six installments, but the Bank did not accept request of the petitioner. Thereafter, the petitioner also approached the Bank for a one-time settlement, and the Bank calculated the total amount as Rs.3,32,000/- on 31.03.2014 and directed the petitioner to deposit Rs.1,00,000/- as part payment for the one time settlement. Further, the Bank informed the petitioner that the total due amount was Rs.2,32,000/-, after adjusting Rs.10,000/- deposited on 21.03.2014 and Rs.1,00,000/- deposited on 08.10.2014. As per the one-time settlement, the balance amount was to be deposited in three installments, i.e. Rs.1,00,000/- on 08.11.2014, Rs.1,00,000/- on 08.12.2014 and Rs.32,000/- on 08.01.2015.

4. Despite the condition of one-time settlement, the petitioner did not deposit the amount to the respondent/Bank. The District Magistrate-cum-Collector, Samastipur, vide order dated 31.08.2016 passed in Sarfaesi Case No.100/2015, directed that possession of the residential house of the petitioner be taken. Being aggrieved by the same, the petitioner filed Sarfaesi Appeal No.178/2016 before the Learned Debt Recovery Tribunal on 20.09.2016, raising the following prayers:

1. To quash the entire proceeding under SARFAESI Act.

2. To quash 13(2) notice dated 06.02.2014.

3. To quash Possession Notice dated 01.08.2014.

4. To quash the order dated 31.08.2016 obtained by Bank for dispossessing the applicant.

5. The Learned Tribunal heard the parties and, vide its order dated 07.10.2016, directed to maintain status quo, as on that date upon receiving a Cheque No.633498 dated 30.09.2016 for an amount of Rs.2,18,356/- by the petitioner. Further, the Learned Tribunal directed the respondent-Bank to file its reply along with details, of the dues of the Bank.

6. The petitioner, vide letter dated 13.10.2016, expressed his grievance regarding the non-deposit of the amount on 22.09.2016, for which the petitioner had handed over the cheque before the Learned Debt Recovery Tribunal on 07.10.2016. The respondent-Bank recalculated the total amount for Rs.6,25,031/- vide calculation chart dated 10.02.2017 along with interest. The Learned Tribunal, vide order dated 15.04.2017, dismissed the Sarfaesi Appeal without considering the facts of the case. Being aggrieved by the same, the present Writ petition has been filed.

8. It is the specific contention of the Learned counsel for the petitioner that the petitioner is a small proprietorship firm and is having a small residential house. Despite depositing a substantial amount, the present order has been passed by the Learned Tribunal.

9. Heard the Learned counsel for the petitioner as well as the Learned counsel for the respondents. Perused the record.

10. Considering the rival submissions of both the parties available on record, it is evident that the Writ petition is filed for challenging the order of the District Magistrate-cum-Collector, Samastipur, as well as the order of the Learned Debt Recovery

Tribunal.

11. Admittedly, there is an alternative remedy available to the petitioner, to challenge the order of the Learned Debt Recovery Tribunal, Patna before the Debt Recovery Appellate Tribunal, Allahabad. Instead of availing such remedy, the petitioner has preferred the present Writ petition.

12. The Hon'ble Apex Court, in the case of ***United Bank of India v. Satyawati Tondon***, reported in (2010) 8 SCC 110, held as follows:

> *"The High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. While dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are*

a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute."

13. In case of ***Celir LLP v. Bafna Motors (Mumbai) (P) Ltd.***, reported in (2024) 2 SCC 1, the Hon'ble Apex Court held as follows:-

"97. This court has time and again, reminded the high courts that they should not entertain petition under article 226 of the constitution if an effective remedy is available to the aggrieved person under the provisions of the SARFAESI ACT."

14. In case of ***PHR Invent Educational Society Vs UCO Bank & Ors*** reported in **2024 Insc 297,** the same principles have been reiterated by the Hon'ble Supreme Court.

15. The aforesaid judgments of the Hon'ble Apex Court squarely apply to the facts and circumstances of the present case.

16. Therefore, this Court is of the considerable view that the Writ petition is not maintainable, when an alternative and effective remedy is available to the petitioners. However, the petitioners are at liberty to approach the appropriate forum for availing their remedy, and the concerned authority shall also consider the aspect of limitation.

17. With the aforesaid observations, the Writ petition stands disposed of.

18. Interlocutory application, if any, shall also stands disposed of.

(G. Anupama Chakravarthy, J)

Shanu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.08.2026.
Transmission Date	NA