IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.7467 of 2026

Jugnu Sinha, wife of Santosh Kumar Sinha, resident of 449, Devi Nagar, Hesag, Hatiya, Ranchi, P.O. Hatiya, P.S. Jagganathpur, District Ranchi (Jharkhand).

..... Petitioner.

-Versus-

1. The State of Jharkhand
2. Deputy Commissioner-cum-District Magistrate, Ranchi.
3. ICICI Bank, through its Authorized Officer/Branch Manager, Main Road Branch, Ranchi.
4. Ashirvad Drug House, through its Proprietor, Anjan Kumar Ambastha, son of Bhagwati Prasad, resident of 1105, Vasundhara Palm Island, Karamtoli Chowk, Morabadi, P.O. & P.S. Lalpur, Ranchi.

..... Respondents.

CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. Siddharth Jain, Advocate
For the State : Mr. Aditya Raman, AC to GA-III
For the Bank : Mr. Bharat Kumar, Advocate

Order No.03 **Date: 30.09.2026**

1. The present writ petition has been preferred for quashing the proceedings under sections 13(2), 13(4) and the consequential proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 initiated by the respondent-Bank with respect to the petitioner's residential property situated over Khata No. 21/142, R.S. Plot No. 1078, Sub Plot No. 1078/11, Mouza-Hesag, P.S.-Jagannathpur, Thana No. 247, District-Ranchi (hereinafter referred as the said property).

2. Mr. Amit Kumar Das, Learned Senior Counsel appearing on behalf of the petitioner submits that proprietor of the Ashirvad Drug House (respondent no. 4) is engaged in pharmaceutical business

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and had obtained the cash credit facility of Rs. 65 Lakhs (subsequently enhanced to 80 Lakhs) from the respondent-Bank.

3. It is further submitted that the petitioner is neither the borrower nor a voluntary guarantor or mortgagor in respect of the credit facilities sanctioned by the respondent-Bank in favour of the respondent no. 4. The husband of the petitioner, namely Santosh Kumar Sinha, was an employee of the Respondent No. 4. Taking advantage of the said employment, the proprietor of the respondent no. 4 obtained the original documents of the said property from him and mortgaged it to the respondent-Bank for taking credit loan facility.

4. It is also submitted that the petitioner neither intended to stand as a guarantor nor had voluntarily created any mortgage with respect to the said property in the Bank in favour of the respondent no.4. In fact her signatures on various documents were obtained by the respondent no. 4 through misrepresentation and thereby illegally making the petitioner and her husband as guarantors to the said loan without their true consent or even explaining the nature and consequences of various documents prepared to create guarantee.

5. It is further submitted that the respondent-Bank classified the loan account of the respondent no. 4 as a Non-Performing Asset on 02.09.2022 and thereafter issued a demand notice under Section 13(2) of the Act, 2002 on 29.09.2022 vide letter no. SARF13(2)L/2022/271160098/017551000005, claiming the

outstanding amount from the borrower and the alleged guarantors.

6. It is contended that the petitioner never received the notice issued under Section 13(2) of the Act, 2002 in the manner prescribed under the said Act and rule 3 of the Security Interest (Enforcement) Rules, 2002. Thus, she is deprived of an opportunity to make her objections before the Bank.

7. It is submitted that the respondent-Bank proceeded to take measures under Section 13(4) of the Act, 2002 and issued a possession notice dated 09.02.2023, thereby taking symbolic possession of the said property.

8. It is also submitted that the petitioner approached the Debts Recovery Tribunal (DRT), Ranchi by filing S.A. No. 41 of 2023 under Section 17 of the Act, 2002 challenging the entire action of the respondent-Bank, which is still pending adjudication.

9. Learned counsel for the petitioner further contends that during pendency of the S.A. No. 41 of 2023, the respondent-Bank initiated the recovery measures against the borrowers/guarantors for recovery of outstanding dues amounting to Rs. 1,00,32,801.86/- and filed an application before the respondent no. 2 for taking possession of the said property under Section 14 of the Act, 2002. The District Certificate Officer, Ranchi vide order dated 20.08.2025 passed in Case No. 08 of 2025-26 allowed the said application directing the physical possession of the said property to be handed over to the respondent no. 3 by taking assistance of police force. The respondent no. 2 approved the

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said order passed by the District Certificate Officer, Ranchi. The said officer then issued letter No. 561 dated 23.08.2025 requesting the Senior Superintendent of Police, Ranchi to depute police force for handing over the physical possession of the said property to the respondent-Bank.

10. It is also argued that the petitioner submitted a detailed representation before the respondent no. 2 pointing out that the mortgage of the said property was challenged on the ground of fraud and forgery for which Jagarnathpur P.S. Case No. 343 of 2022 was lodged against the respondent nos. 3 and 4 pursuant to Complaint Case No. 6329 of 2022 filed by the petitioner against them. The petitioner specifically pointed out in the said representation that S.A. No. 41 of 2023 was pending before the learned DRT, Ranchi. Thereafter, the District Certificate Officer, Ranchi issued letter no. 675(ii) dated 15.10.2025 to Block Co-operative Extension Officer Ratu-cum-Special Magistrate, Ranchi whereby the process for handing over the proposed actual possession was kept in abeyance and a response was called from the respondent-Bank before taking further action.

11. It is further submitted that the remedy under section 17 of the Act, 2002 has already been invoked by the petitioner, however at present, the Debts Recovery Tribunal, Ranchi is not functional due to lack of quorum and as such the petitioner has no other efficacious remedy but to file the present writ petition.

12. It is also submitted that the proceeding initiated by the respondent-Bank under the Act, 2002 is wholly illegal, arbitrary

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and without jurisdiction so far as it relates to the said property as the very foundation of the alleged mortgage is under challenge on the ground of fraud, forgery, coercion, misrepresentation and absence of free consent.

13. Mr. Bharat Kumar, learned counsel appearing on behalf of the respondent-Bank submits that the present writ petition is not maintainable in view of the fact that the petitioner has alternative/statutory/efficacious remedy before the DRT and the said remedy has already been availed by her. It is further submitted that the DRT, Ranchi is functional and in fact the case of the petitioner is listed today before the DRT.

14. Heard the learned counsel for the parties and perused the materials available on record.

15. The claim of the petitioner is that she is neither the borrower nor the voluntary guarantor or mortgagor in respect of the cash credit facility granted in favour of the respondent no. 4 by the respondent no. 3, rather the documents of the said land were fraudulently used by the respondent no. 4 for taking the said facility.

16. The said claim of the petitioner is purely factual in nature which can certainly be raised before the DRT itself. In the case of ***United Bank of India Vs. Satyawati Tandon & Others,*** reported in ***(2010) 8 SCC 110***, the Hon'ble Supreme Court has held that the expression "any person" used in Section 17(1) of the Act, 2002 is of wide implication and the same includes not only the borrower, but also the guarantor or any other person

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who may be affected by the action taken under Section 13(4) or Section 14 of the Act, 2002. Thus, the DRT or the Debts Recovery Appellate Tribunal (DRAT) are duly empowered to entertain the application/appeal filed under Section 17 and 18 of the SARFAESI Act, 2002 respectively including passing of interim orders and deciding the dispute within a fixed period. It has thus been settled that the remedy under Section 17 of the SARFAESI Act, 2002 is available to any aggrieved person.

17. Admittedly, the petitioner has already invoked the remedy under section 17 of the Act, 2002 by filing S.A No. 41 of 2023 before the DRT, Ranchi however, according to her, the same has not been adjudicated till date since the DRT, Ranchi is presently non-functional due to lack of forum. The said factual contention of the petitioner has been refuted by Mr. Bharat Kumar, learned counsel for the respondent-Bank by submitting that DRT, Ranchi is functional and today i.e. on 30.09.2026 the case of the petitioner is listed before the said tribunal. The learned counsel for the petitioner has not been able to refute the said submission of Mr. Bharat Kumar.

18. The Hon'ble Supreme Court in the case of ***Standard Charted Bank Vs. V. Noble Kumar & Ors., reported in (2013) 9 SCC 620***, has held as under:-

> *"27. The "appeal" under Section 17 is available to the borrower against any measure taken under Section 13(4). Taking possession of the secured asset is only one of the measures that can be taken by the secured creditor. Depending upon the nature of the secured asset and the terms and conditions of the security agreement,*

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> *measures other than taking the possession of the secured asset are possible under Section 13(4). Alienating the asset either by lease or sale, etc. and appointing a person to manage the secured asset are some of those possible measures. On the other hand, Section 14 authorises the Magistrate only to take possession of the property and forward the asset along with the connected documents to the borrower (sic the secured creditor). Therefore, the borrower is always entitled to prefer an "appeal" under Section 17 after the possession of the secured asset is handed over to the secured creditor. Section 13(4)(a) declares that the secured creditor may take possession of the secured assets. It does not specify whether such a possession is to be obtained directly by the secured creditor or by resorting to the procedure under Section 14. We are of the opinion that by whatever manner the secured creditor obtains possession either through the process contemplated under Section 14 or without resorting to such a process obtaining of the possession of a secured asset is always a measure against which a remedy under Section 17 is available."*

19. So far as invoking the writ jurisdiction in the matter of realization of loan by the financial institutions/secured creditors is concerned, the Hon'ble Supreme Court in the case of ***Authorized Officer, State Bank of Travancore & Anr. Vs. Mathew K.C., reported in (2018) 3 SCC 85,*** has held as under: -

> *"16. It is the solemn duty of the Court to apply the correct law without waiting for an objection to be raised by a party, especially when the law stands well settled. Any departure, if permissible, has to be for reasons discussed, of the case falling under a defined exception, duly discussed after noticing the relevant law. In financial matters grant of ex-parte interim orders can have a deleterious effect and it is not sufficient to say that the aggrieved has the remedy to move for vacating the interim order. Loans by financial institutions are granted*

from public money generated at the tax payers expense. Such loan does not become the property of the person taking the loan, but retains its character of public money given in a fiduciary capacity as entrustment by the public. Timely repayment also ensures liquidity to facilitate loan to another in need, by circulation of the money and cannot be permitted to be blocked by frivolous litigation by those who can afford the luxury of the same. The caution required, as expressed in Satyawati Tandon (supra), has also not been kept in mind before passing the impugned interim order:-

> *"46. It must be remembered that stay of an action initiated by the State and/or its agencies/instrumentalities for recovery of taxes, cess, fees, etc. seriously impedes execution of projects of public importance and disables them from discharging their constitutional and legal obligations towards the citizens. In cases relating to recovery of the dues of banks, financial institutions and secured creditors, stay granted by the High Court would have serious adverse impact on the financial health of such bodies/institutions, which (sic will) ultimately prove detrimental to the economy of the nation. Therefore, the High Court should be extremely careful and circumspect in exercising its discretion to grant stay in such matters. Of course, if the petitioner is able to show that its case falls within any of the exceptions carved out in Baburam Prakash Chandra Maheshwari v. Antarim Zila Parishad, Whirlpool Corpn. v.Registrar of Trade Marks and Harbanslal Sahnia v. Indian Oil Corpn. Ltd. and some other judgments, then the High Court may, after considering all the relevant parameters and public interest, pass an appropriate interim order."*

17. The writ petition ought not to have been entertained and the interim order granted for the mere asking without assigning special reasons, and that too without

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> *even granting opportunity to the Appellant to contest the maintainability of the writ petition and failure to notice the subsequent developments in the interregnum. The opinion of the Division Bench that the counter affidavit having subsequently been filed, stay/modification could be sought of the interim order cannot be considered sufficient justification to have declined interference."*

20. In the case of ***Celir LLP Vs. Bafna Motors (Mumbai) (P) Ltd. & Others, reported in (2024) 2 SCC 1,*** the Hon'ble Supreme Court held as under: -

> *"101. More than a decade back, this Court had expressed serious concern despite its repeated pronouncements in regard to the High Courts ignoring the availability of statutory remedies under the Rdbfi Act and the Sarfaesi Act and exercise of jurisdiction under Article 226 of the Constitution. Even after, the decision of this Court in [United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110], it appears that the High Courts have continued to exercise its writ jurisdiction under Article 226 ignoring the statutory remedies under the Rdbfi Act and* the Sarfaesi Act."

21. In the case of ***PHR Invent Educational Society Vs. UCO Bank & Others, reported in (2024) 6 SCC 579,*** the Hon'ble Supreme Court has held that the High Court should not entertain a petition filed under Article 226 of the Constitution, if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken, itself contains a mechanism for redressal of grievance.

22. Thus, it is no more res-integra that ordinarily a writ petition is not entertained by the High Courts when alternative/statutory/ efficacious statutory remedy is available to the aggrieved person. In the present case also, the petitioner has alternative efficacious

remedy available under section 17 of the Act, 2002 which she has already invoked.

23. For the reasons as aforesaid, this Court is not inclined to entertain the present writ petition and the same is accordingly dismissed.

24. The petitioner is, however, at liberty to pursue S.A. No. 41 of 2023, which is pending before the DRT, Ranchi.

(Rajesh Shankar, J.)

30th September, 2026
Sanjay/NAFR
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