IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.264 of 2026
In
Civil Writ Jurisdiction Case No.12970 of 2023

CNR No. BRHC010311132026

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Surya Narayan Raut Son of Late Ram Preet Raut, Resident of Village - Permanent Add- Kothia Mirzapur, P.S. Kewati (Baggha), Ward 15, Ram Janki Mandir, PO Jalwara, District -Darbhanga. At present Mohalla - Ruhelaganj Naka - 2, Ward No. 5, P.S. L.N.M.U., District Darbhanga.

... ... Appellant/s

Versus

1. The State of Bihar.
2. The District Magistrate, Darbhanga.
3. The Senior Superintendent of Police, Darbhanga.
4. The S.H.O., University P.S., Darbhanga.
5. The Circle Officer, Sadar, Darbhanga.
6. The General Manager, Canara Bank, Patna.
7. The Zonal Manager, Canara Bank, Lav Kush Tower, Exhibition Road, Patna.
8. The Divisional Manager cum Authorized Officer, Canara Bank, Purnia.
9. The Branch Manager, Madhuri Complex Branch of Canara Bank, Darbhanga.
10. Sujata Kumari, Wife of Shashi Bhushan Prasad, Resident of Ward no 11, Loknathpurganj, Dalsingh Sarai, PS Dalsingh Sarai, District Samastipur.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Khurshid Alam, Advocate.
		Mr. Mazid Mahboob Khan, Advocate.
For the State	:	Mr. Sanjay Kumar Ghosarvey, AC to AAG-3
For the Bank	:	Mr. Ranjan Ghosarvey, Advocate.
For the Pvt. Resp.	:	Mr. Akhilesh Dutta Verma, Advocate.
		Mr. Niraj Nikhil, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

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Case Citation: (2026) ibclaw.in 6404 HC

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 30-09-2026

Re.: I.A. No. 02 of 2026:

Learned counsel for the appellant presses I.A. No. 02 of 2026 for condoning the delay of 14 days in preferring this appeal.

2. For the reasons stated in the application, the delay in preferring this appeal is condoned.

3. I.A. No. 02 of 2026 stands allowed.

Re.: L.P.A.No. 264 of 2026

4. Heard learned counsel for the parties.

5. The present *intra court* appeal has been preferred against the order dated 04.02.2026 passed in C.W.J.C. No. 12970 of 2023, whereby the writ petition preferred by the writ-petitioner (respondent No. 10 herein) came to be allowed.

6. The writ-petitioner, respondent no. 10 herein, claimed that the property bearing Khata No. 152, Khesra No. 1112 (Old), measuring 1 Katha 15 Dhurs 73 Dhurki, equivalent to 7.79 decimals, situated at Mohalla Ruhellaganj, Darbhanga, had been put to sale by Canara Bank under the provisions of the SARFAESI Act, 2002. The Authorized Officer of the Bank issued a sale notice and an e-auction was thereafter conducted.

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The writ-petitioner claimed to have participated in the e-auction and to have been declared the successful bidder. A registered sale deed was subsequently executed in her favour on 03.07.2020 for a consideration of Rs.59,53,000/-.

7. The writ-petitioner further stated that, for obtaining physical possession of the property, proceedings were initiated before the District Magistrate-cum-Collector, Darbhanga under Section 14 of the SARFAESI Act. The District Magistrate-cum-Collector, by order dated 21.06.2022, directed the concerned authorities to take steps for obtaining physical possession of the property with police assistance. Certain proceedings thereafter took place in connection with delivery of possession, and criminal cases were also registered in relation to the incidents alleged to have occurred during such proceedings.

8. The writ-petitioner ultimately filed C.W.J.C. No. 12970 of 2023 seeking, inter alia, delivery of physical possession of the property purchased by her in the e-auction.

9. The learned Single Judge, by order dated 04.02.2026, allowed the writ petition, relevant portion of the said order reads as follows:

> *"10. Having regard to the above provision of law as well as the law laid down by the Hon'ble Supreme Court, the respondent-Bank is obligated to deliver the physical possession of*

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the subject property to the successful auction purchaser. This obligation does not end with the execution of the sale-deed but extends beyond that. Under the scheme of the Act, the District Magistrate is the competent authority for handing over the physical possession of the subject property on the request made by the respondent-Bank under Section 14 of the SARFAESI Act.

11. Further, once the sale-deed is executed in favor of the petitioner, the respondent No. 10 cannot have any say at the time of delivery of the possession except filing of a petition under Section 17 of the SARFAESI Act, 2002 before the concerned DRT. In this particular case, it appears that the respondent No. 10 has already approached the DRT, Patna by way of S.A. No. 40 of 2020. Therefore, this Court is not inclined to accede to the request made by the respondent No. 10. If the respondent No. 10 is seeking any relief, it has to be before the DRT, Patna in the S.A. No. 40 of 2020 filed by him and not before this Court. Further, the I.A. No. 01 of 2026 filed by the respondent No. 10 appears to be dilatory tactic adopted by the respondent No. 10 to deny the handing over the physical possession of the subject property to the petitioner. Therefore, this Court is not inclined to entertain the prayer sought for in the I.A. and the same is accordingly dismissed.

12. Having regard to the above discussions, the District Magistrate is directed to ensure that the request made by the respondent-Bank for putting the petitioner in physical possession in the subject property is implemented at the earliest. The authority is directed to see that necessary police protection and security is given to the concerned authorities who are deputed to take over the physical possession of the subject property from the Respondent No. 10. In case the respondent No. 10 creates any trouble or prevents the officials from taking over the

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> *physical possession of the subject property and hand over the same to the petitioner herein, the authority is directed to take necessary steps for removing the respondent No. 10 or anybody acting on his behalf from the subject premises and hand over the physical possession of the subject property to the petitioner herein.*
> *13. The entire exercise shall be completed as expeditiously as possible preferably within a period of six weeks from the date of receipt of a copy of this order.*
> *14. The official respondents more particularly, the District Magistrate, Darbhanga (Respondent No. 2) is directed to see that the physical possession of the subject property is handed over to the petitioner at the earliest i.e. within the timeframe fixed by this Court and mere pending of the S.A. filed by the respondent No. 10 shall not be a ground for not implementing the order of this Court. 15. With the above directions, the present writ petition stands allowed to the extent indicated."*

10. Learned counsel appearing for the appellant submits that Clause 6(d) of the sale notice specifically required every intending participant to deposit 10% of the reserve price as earnest money through RTGS/NEFT/fund transfer on or before 22.12.2019 by 4:00 P.M. However, the sale deed relied upon by the writ petitioner itself indicates that the earnest money was deposited only on 21.01.2020. Thus, according to the appellant, the writ petitioner could not have validly participated in the e-auction. It is further submitted that Clause 6(j) of the sale notice required deposit of 25% of the sale price

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immediately upon conclusion of the auction or on the following day, whereas the documents on record do not establish compliance with the said condition.

11. It is further submitted that the writ petition itself was not maintainable on account of delay and limitation, particularly when the relief sought was founded upon the alleged sale and the subsequent execution of the sale deed, whereas the writ petition came to be filed much thereafter. Learned counsel submits that the learned Single Judge failed to consider the objection regarding availability of the statutory remedy and the pendency of S.A. No. 40 of 2020 before the Debts Recovery Tribunal, wherein the SARFAESI proceedings were already under challenge and the writ petitioner as well as the Bank were parties.

12. Learned counsel further submits that the principal dispute before the learned Single Judge was whether the residential house of the appellant had in fact been validly mortgaged in favour of the Bank and whether the Bank could proceed against the same under the SARFAESI Act. According to the appellant, the movable properties had been offered as security and the residential house was not the mortgaged property. It is therefore submitted that the Bank could not have

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proceeded to sell the residential house without following the mandatory procedure prescribed under the SARFAESI Act and the Rules.

13. It is further submitted that the appellant had been ready and willing to clear the outstanding dues and had approached the Bank with a demand draft of Rs.11,50,000/-, but the Bank did not accept the same. It is contended that despite the aforesaid circumstances, the residential house of the appellant was proceeded against and sold, causing serious prejudice to the appellant.

14. Learned counsel appearing for the respondent submits that the impugned order has been passed upon proper consideration of the material available on record and calls for no interference in the present intra-court appeal. It is submitted that the appellant has failed to point out any illegality, perversity or infirmity in the order passed by the learned Single Judge. It is, therefore, submitted that the present appeal is liable to be dismissed.

15. We have heard learned counsel for the parties and have also gone through the materials available on record.

16. The limited issue which arises for consideration before this Court is as to whether the order passed by the

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learned Single Judge suffers from any illegality, perversity or infirmity warranting interference in the appellate jurisdiction of this Court.

17. Upon perusal of the impugned order and the materials available on record, it appears that the writ petitioner was the successful auction purchaser and a registered sale deed dated 03.07.2020 had already been executed in her favour pursuant to the auction proceedings. The writ petition was, therefore, essentially for delivery of physical possession of the property which had already been sold in favour of the writ petitioner.

18. It would be relevant to note that, once the sale had culminated in execution of the registered sale deed in favour of the writ petitioner, the relief of delivery of physical possession was consequential to the completed sale. The learned Single Judge, in the aforesaid circumstances, directed the competent authority to facilitate delivery of physical possession to the writ petitioner. The mechanism contemplated under Section 14 of the SARFAESI Act for obtaining possession through the District Magistrate has also been recognised by the Hon'ble Supreme Court in ***ITC Ltd. v. Blue Coast Hotels Ltd.*** reported in ***(2018) 15 SCC 99***, wherein following observations have been made:

> ***"44.*** *According to the debtor, since Section 14*

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provides that an application for taking possession may be made by a secured creditor, and the creditor having ceased to be a secured creditor after the confirmation of sale in favour of the auction-purchaser, was not entitled to maintain the application. Consequently, therefore, the order of the District Magistrate directing delivery of possession is a void order. This submission found favour with the High Court that held that the creditor having transferred the secured assets to the auction-purchaser ceased to be a secured creditor and could not apply for possession. The High Court held that the Act does not contemplate taking over of symbolic possession and therefore the creditor could not have transferred the secured assets to the auction-purchaser. In any case, since ITC Ltd. was the purchaser of such property, it could only take recourse to the ordinary law for recovering physical possession."

19. At this stage, this Court, in exercise of its intra-court appellate jurisdiction, is primarily concerned with the correctness of the direction issued by the learned Single Judge for delivery of physical possession. The validity of the underlying SARFAESI proceedings and the auction sale, which are already subject matter of S.A. No. 40 of 2020 before the Debts Recovery Tribunal, need not be examined in the present appeal. The statutory remedy under Section 17 of the

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SARFAESI Act is available for examination of such grievances. The Supreme Court in ***Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd.*** reported in ***(2024) 2 SCC 1***, has also considered the statutory scheme governing confirmed SARFAESI sales and the remedy available under Section 17. The relevant portion of the said order reads as follows:

> ***"110.1.*** *The High Court was not justified in exercising its writ jurisdiction under Article 226 of the Constitution more particularly when the borrowers had already availed the alternative remedy available to them under Section 17 of the SARFAESI Act.*
>
> ***110.2.*** *The confirmation of sale by the Bank under Rule 9(2) of the 2002 Rules invests the successful auction-purchaser with a vested right to obtain a certificate of sale of the immovable property in the form given in Appendix V to the Rules i.e. in accordance with Rule 9(6) of the Security Interest (Enforcement) Rules, 2002.*
>
> ***110.3.*** *In accordance with the unamended Section 13(8) of the SARFAESI Act, the right of the borrower to redeem the secured asset was available till the sale or transfer of such secured asset. In other words, the borrower's right of redemption did not stand terminated on the date of the auction-sale of the secured asset itself and remained alive till the transfer was completed in favour of the auction-purchaser, by registration of the sale certificate and delivery of possession of the secured asset. However, the amended*

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> *provisions of Section 13(8) of the SARFAESI Act, make it clear that the right of the borrower to redeem the secured asset stands extinguished thereunder on the very date of publication of the notice for public auction under Rule 9(1) of the 2002 Rules. In effect, the right of redemption available to the borrower under the present statutory regime is drastically curtailed and would be available only till the date of publication of the notice under Rule 9(1) of the 2002 Rules and not till the completion of the sale or transfer of the secured asset in favour of the auction-purchaser.*
>
> ***110.4.*** *The Bank after having confirmed the sale under Rule 9(2) of the 2002 Rules could not have withheld the sale certificate under Rule 9(6) of the 2002 Rules, and entered into a private arrangement with a borrower.*
>
> ***110.5.*** *The High Court under Article 226 of the Constitution could not have applied equitable considerations to overreach the outcome contemplated by the statutory auction process prescribed under the SARFAESI Act."*

20. In view of the fact that the sale had already culminated in execution of a registered sale deed in favour of the writ petitioner and the learned Single Judge had confined the relief to delivery of physical possession, while leaving the appellant to pursue the statutory remedy available before the Debts Recovery Tribunal, we find no illegality, perversity or

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infirmity in the impugned order warranting interference in the present intra-court appeal. The issue framed is therefore answered against the appellant.

21. Accordingly, the present *intra court* appeal stands dismissed.

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

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.10.2026
Transmission Date	NA

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