IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12141 of 2026

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Prem Kumar Son of Dinesh Prasad, resident of Opposite Dharamshala, Kamaruddin Ganj, Bihar, P.S.- Biharsharif, District- Nalanda.

... ... Petitioner/s

Versus

1. The Indian Overseas Bank through the Managing Director, 763, Anna Salai, Chennai, Tamilnadu.
2. The Regional Manager, Indian Overseas Bank, Naseman House, 2nd and 3rd Floor, West Gandhi Maidan, District- Patna, Bihar.
3. The Branch Manager, Indian Overseas Bank, Nawada Branch, 1st Floor, Gayatri Devi Bhawan, Old Bus Stand, Gaya Road, District- Nawada, Bihar.
4. The Authorized Officer, Indian Overseas Bank, Nawada Branch, 1st Floor, Gayatri Devi Bhawan, Old Bus Stand, Gaya Road, District-Nawada, Bihar.
5. Jitendra Kumar, Son of Late Rajendra Prasad, resident of Akbarpur Sangat Ke Pas, P.O. and P.S. Akbarpur, District- Nawada, PIN- 805126, Proprietor M/s Paridhi Electricals.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Rajesh Mohan, Adv.
For the Respondent/s 1 to 4 : Mr. Sanjay Singh Thakur, Adv.
Mr. Shashank Shekhar, Adv.

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CORAM: HONOURABLE MR. JUSTICE GIRIJISH KUMAR

ORAL ORDER

2 20-08-2026 Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the respondent- Indian Overseas Bank.

2. This writ application has been filed for the following reliefs:-

> *(i) Whether the respondent Bank is not acting arbitrary, bias and malafide in manner in not granting the permission to the petitioner to settle the loan account under OTS, who is a guarantor only to the loan given to the private respondent, to*

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liquidate the loan amount of the respondent Bank given to the Borrower- respondent no. 5 only?

(ii) Whether the respondent Bank is not acting in harassing attitude towards the petitioner being guarantor to the loan only, in not accommodating him in depositing the loan amount in easy installments against the Cash Credit loan Facilities granted to the borrower - respondent no. 5 here?

(iii) Whether the respondent Bank is not acting in improper, unjust and unlawful in manner in taking steps against the property of the guarantor for sale under the SARFAESI Act and leaving the Borrower/ petitioner no. 5 free from botheration and liabilities of the loan outstanding?

(iv) Whether the respondent Bank is not acting against the aim and object of the SARFAESI Act, while proceeded in E-auction sale of the guarantor's property situated in Biharsharif instead of mortgage assets of the borrower for realization of their loan outstanding for less than half of their market value worth of approx. Rs. 40 – 50 Lakhs?

(v) Whether the respondents are not acting against the legitimate expectation of the petitioner in selling the petitioner's assets in less than half of the real market value without obtaining a valuation report and showing their transparency in the proceeding, who is only guarantor of the loan granted to the respondent no. 5 and left the mortgaged assets of the borrower untouched?

(vi) Whether the respondents are not

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> *violating the petitioner's right to equality and his fundamental rights as guaranteed under Articles 14 & 21, 300A of the Constitution of India?"*

3. At the outset, learned counsel appearing on behalf of the respondent- Bank submits that the petitioner has directly approached this Court without availing the alternative remedy available to him. He further draws the attention of this Court towards the several judgments of the Hon'ble Supreme Court in which the Hon'ble Supreme Court has held that if an effective remedy is available to the aggrieved persons, the High Court should not ordinarily entertain a writ petition under Article 226 of the Constitution of India.

4. In view of submission, this Court reiterates the judgment passed by the Hon'ble Apex Court in the case of **United Bank of India v. Satyawati Tondon,** reported in (2010) 8 SCC, in which it is 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*

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banks are 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."

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

"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."

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

7. 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 petitioner. However, the petitioner is at liberty to approach the appropriate forum for availing his remedy, and the concerned authority shall also consider the aspect of limitation.

8. With the aforesaid observations, this Writ petition stands disposed of.

(Girijish Kumar, J)

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