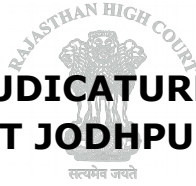




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR.**



S.B. Civil Writ Petition No. 8983/2022

1. Atma Ram Bishnoi S/o Shri Bhagwana Ram, Aged About 49 Years, R/o 82 Rb, Tehsil Raisinghnagar, District Sri Ganganagar (Raj.).
2. Smt. Kamlesh W/o Shri Atma Ram Bishnoi, Aged About 47 Years, R/o 82 Rb, Tehsil Raisinghnagar, District Sri Ganganagar (Raj.).

----Petitioners

Versus

1. District Collector, Sri Ganganagar, District Sri Ganganagar (Rajasthan).
2. A. U. Small Finance Bank Ltd., (Earlier Named As A.u. Financiers India Ltd) B-11, Behind The Ceg Building, Malviya Nagar, Industrial Area Jaipur - 302017 Rajasthan Through Authorized Officer.
3. A.u. Small Finance Bank Ltd., (Earlier Named As A.u. Financiers India Ltd) Office 25-A Ravindra Path, Sri Ganganagar Through Its Branch Manager.

----Respondents

Connected With

S.B. Civil Writ Petition No. 2264/2021

Atma Ram Bishnoi S/o Shri Bhagwana Ram Bishnoi, Aged About 48 Years, R/o Village 82Rb, Tehsil Raisinghnagar, District Sri Ganganagar.

----Petitioner

Versus

1. The District Magistrate, Sri Ganganagar, Sri Ganganagar.
2. Au Small Finance Bank Ltd., 19-A, Dhuleshwar Garden, Ajmer Road, Jaipur Through Chairman And Managing Director.
3. Branch Manager, Au Small Finance Bank Ltd., 25-A, Ravindra Path, Sri Ganganagar.

----Respondents

S.B. Civil Writ Petition No. 15697/2024

Au Small Finance Bank Ltd., Through Its Authorized Officer Shri Mohan Ram S/o Shri Bhakar Ram, Aged About 43 Years, Having



Its Office At 5Th Floor, Shantivan Building, Sardarpura, Jodhpur.

-----Petitioner

Versus

1. Atmaram Bishnoi S/o Shri Bhagwanaram Bishnoi, Aged About 51 Years, R/o Village 82 Rb, Tehsil Raisinghnagar, District Sriganganagar.
2. Superintendent Of Police, Sriganganagar.
3. Station House Officer, Police Station Raisinghnagar, District Sriganganagar.
4. District Collector-Cum-District Magistrate, Collectorate, Sriganganagar.

-----Respondents

For Petitioner(s) : Mr. Ripudaman Singh.
For Respondent(s) : Mr. Vijay Purohit.

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

21/01/2025

(3) S.B. Civil Writ Petition No. 8983/2022

Mr. Ripudaman Singh, learned counsel for the petitioners submits that he may be permitted to withdraw the present writ petition.

Accordingly, the present writ petition is dismissed as withdrawn.

(4) S.B. Civil Writ Petition No. 2264/2021

No one is present on behalf of the petitioner, therefore, the present writ petition is dismissed for want of prosecution.

(5) S.B. Civil Writ Petition No. 15697/2024

Heard learned counsel for the parties.



The present writ petition has been filed for the following reliefs:-

- "I. The present writ petition may kindly be allowed.*
II. The possession of the secured/mortgaged, property, more particularly described in Annex.7 be restored back to the petitioner-Bank;
- III. The respondent Nos.2 to 3 may be directed to take possession from the respondent No.1 and restore back the possession to the petitioner-Bank. That the respondent Nos.2 & 3 be further directed to register appropriate criminal case/proceedings against the respondent No.1 in the given facts and circumstances of the case and especially in response to the complaint filed by the petitioner-bank.*
- IV. Heavy cost may be ordered against the respondent No.1 in the facts and circumstances of the case and the said cost may be directed to be given to the petitioner- Bank.*
- V. Appropriate compensation with regard to the forcible possession taken by the respondent No.1 may also be awarded in favour of petitioner-Bank."*

Mr. Vijay Purohit, learned counsel for the petitioner submits that the petitioner is a financial institution (hereinafter referred to as the 'petitioner bank') and it had granted loan to the respondent No.1. Since, the loan amount was not repaid by the respondent No.1, therefore, he was declared as NPA and proceedings under Securitization and Reconstruction of Financial Assets and Enforcement Security Interests Act, 2002 (for short, Act of 2002') were undertaken by the petitioner. In pursuance of the proceedings undertaken by the petitioner under the Act of 2002, possession of the mortgaged property was taken over by the petitioner Bank. After the petitioner had taken over the possession, the respondent No.1 broke the locks of the property and forcibly entered into it. In the circumstances, the petitioner



being a financial institution approached the District Collector, Sri Ganganagar and Superintendent of Police, Sri Ganganagar for restoring the possession of the mortgaged property to it but till date, no action has been taken by them.

It is also contended that despite ample opportunities having been granted to the respondent No.1, the amount due to the petitioner has not been paid till date. Not only this, in defiance of Rule of Law, the respondent No.1 has forcibly taken over possession of the mortgaged property. Learned counsel in these circumstances submits that the authorities i.e. the District Collector, Sri Ganganagar and Superintendent of Police, Sri Ganganagar may be directed to protect interest of the petitioner as it is a clear case of defiance of law and a situation of lawlessness at the hands of respondent No.1. He, therefore, prays that the respondents Nos.2 to 4 may be directed to act upon the representations/applications filed by the petitioner for securing possession of the property mortgaged by it.

Learned counsel for the respondent No.1 is not in a position to refute the submissions made by learned counsel for the petitioner. He submits that appropriate orders may be passed for securing the ends of justice.

I have considered the submissions made at the bar and gone through the relevant record of the case.

The facts narrated above clearly show that the respondent No.1 had taken loan from the petitioner and in the process, he had mortgaged his property for securing the loan amount. It is also clear that the respondent No.1 had not repaid the loan amount,



therefore, the proceedings under the Act of 2002 were initiated against him. The proceedings aforesaid culminated into issuance of possession notice by the petitioner bank for securing the loan amount. After the petitioner having taken over possession of the mortgaged property of the respondent No.1, the respondent No.1 through his muscle power has forcibly taken over possession of the mortgaged property and has been enjoying the same without repayment of the loan amount due to the petitioner. The petitioner in these circumstances approached the respondent No.2- Superintendent of Police, Sri Ganganagar and respondent No.4- District Collector, Sri Ganganagar by way of filing appropriate representations as per the Rules for securing possession of the mortgaged property.

It is informed that till date, the possession of mortgaged property has not been restored to the petitioner bank. The State functionaries are under an obligation to restore rule of law. If the petitioner is not allowed to take possession of the mortgaged property, it will amount to a clear case of defiance of rule of law and therefore, the respondents Nos.2 and 4 are under an obligation to act in consonance with the provisions of law for restoring possession of the petitioner in the circumstances when the petitioner has already approached them.

This Court is surprised that on one hand, a person had taken loan and when the same was not repaid, the possession of the mortgaged property was taken over by the petitioner bank as per law but by sheer muscle power, the petitioner bank has been dislodged and possession of the mortgaged property has been



forcibly taken over by the respondent No.1 and despite having represented to the law enforcing officer, nothing has been done to uphold majesty of law till date. The situation is alarming and the State functionaries are warned that if they do not act in such a situation, it will create lawlessness in the State of Rajasthan which will be viewed very seriously by this Court. Therefore, this court is of the view that stern action should be taken against the respondent No.1 for restoring possession of the mortgaged property immediately to the petitioner.

In view of the discussion made above, the writ petition merits acceptance and therefore, the same is allowed. The respondent No.2 District Collector, Sri Ganganagar and respondent No.4- Superintendent of Police, Sri Ganganagar are directed to act immediately for restoring possession of the mortgaged property to the bank in accordance with law.

The entire exercise shall be carried out by the respondents within a period of four weeks from the date of receipt of certified copy of this order.

(VINIT KUMAR MATHUR),J

3-5 Anil Singh/-