COURT NO.1

HIGH COURT OF SIKKIM : GANGTOK
Record of Proceedings

WA No. 03/2025

MEENA JHA

APPELLANT (S)

VERSUS

STATE BANK OF INDIA & ORS. RESPONDENT (S)

For Appellant	:	Mr. Shiv Kumar Pandey, Mr. Abhinav Kant Jha and Ms. Pema Dechen Bhutia, Advocates.
For Respondents No. 1 and 2.	:	Mr. J. K. Chandak, Advocate.
For Respondents No. 3 to 5	:	None.
For Respondents No. 6 and 7	:	Mr. Thinlay Dorjee Bhutia, Government Advocate with Ms. Pema Bhutia, Assistant Government Advocate.

Date: 06/11/2025

CORAM:
HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE
HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

O R D E R: (per the Hon'ble, the Chief Justice)

This is an Intra-Court Mandamus Appeal, arising in respect of a judgment and order passed by a learned Single Judge on 14th August, 2025, in WP(C) No.13 of 2020 *(Meena Jha vs. State Bank of India and Others)*.

By the impugned judgment and order, the learned Single Judge proceeded to dismiss the writ petition with the following observations:-

> **"23.** Unlike the facts in ***IDBI Bank Limited*** vs. ***Ramswaroop Daliya*** [(2024) SCC OnLine SC 2878] referred to by the petitioner the facts of the present case is different. It is not a case where the petitioner having paid the 25% of the sale price in terms of Rule 9(3) of the SI Rules the respondents had not accepted the balance auction money. This is a case where there is complete and absolute failure on the part of the petitioner to pay any amount of the sale price whatsoever although having been declared the successful bidder on 13.10.2011.
>
> **24.** The conflicting pleas made in the writ petition coupled with the petitioner's conduct during the period between the auction and now questions her bonafides. The petitioner has made conflicting pleas

> regarding payments made by her without substantiating the same by documentary evidence. These pleas have been disputed by the respondent no.1. There are serious disputed questions of facts which arise due to the inconsistent pleadings of the parties which is difficult to be gone into in writ jurisdiction. Although admittedly the petitioner has not made payment of the deposit of 25% of the sale price or the balance of the sale price it is noticed that in the writ petition filed before the Guwahati High Court the petitioner has stated that *"..... on 12.12.2011, the petitioner made the entire payment of the remaining sale amount in respect of purchase of the aforesaid property and pursuant thereto, the respondent no.2 issued a sale certificate dated 03.01.2012 wherein, it was certified that the property has been sold out to the petitioner vide auction held on 13.10.2011 and the petitioner was held to be the owner of the property w.e.f. 13.10.2011."* The above statements are factually false and incorrect. When the petitioner indulges on falsehood for her cause the writ court would also hesitate to exercise its discretionary powers in favour of the petitioner.
>
> **25.** Furthermore, the petitioner would fall within the expression "any person" as specified under Section 17(1) of the SARFAESI Act and hence was entitled to challenge the action of the respondent no.1 before the Debts Recovery Tribunal by filing an appropriate application. The petitioner has not availed this alternative efficacious remedy. The writ petition is liable to be dismissed on this ground as well.
>
> **26.** The writ petition is therefore dismissed along with the interim application.**"**

The moot question which was formulated by the learned Single Judge which led to the conclusion as reproduced hereinabove, will appear from paragraph 1 of the impugned judgment and order, which reads as follows;

> **"1.** The question that falls for determination is whether the writ petition filed in the year 2020 by the auction purchaser who had participated in an auction sale of the immovable property of the secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the SARFAESI Act) in the year 2011 but failed to pay the deposit of 25% of the sale price as required under Rule 9(3) or pay the balance within the time frame under Rule 9(4) of the Security Interest (Enforcement) Rules, 2002 (the SI Rules), should be allowed?**"**

A bare perusal of the impugned judgment and order in its entirety clearly reveals no palpable infirmities or perversities which would warrant an interference by this Court in an Intra-Court Mandamus Appeal. In fact, the impugned judgment and order has been delivered with cogent and justifiable reasons.

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In such circumstances, we are left with no option but to dismiss the appeal. The same stands accordingly dismissed along with the interlocutory application connected thereto.

(Meenakshi Madan Rai)
Judge

(Biswanath Somadder)
Chief Justice

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