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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 905/2026

SAMEER THAKUR .....Petitioner

Through: Mr. Prithu Garg, Mr.. Shivam Singh, Mr. Ashutosh Arvind Kumar, Advs.

versus

STATE BANK OF INDIA AND ORS. .....Respondent

Through: Mr. Santosh Kumar Rout, Standing Counsel with Manager Ashok Kumar Surya for R-1/SBI
Mr. Ajay Chowdhary, Senior Panel Counsel for R-5/ Delhi Police

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

O R D E R

% **22.01.2026**

1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers:

   i. *"Issue a writ of certiorari or any other appropriate writ, order or direction for quashing / setting aside the Possession Notice dated 29.12.2025 pasted by Respondent No. 1 at the Petitioner's commercial premises / restaurant at Unit No. S-63, Second Floor, Purvanchal Royal City, Sector CHI-V, Greater Noida, Uttar Pradesh - 201312, thereby purporting to take possession of the Petitioner's Movable Assets kept or installed at the aforesaid Premises, as more fully described in Annexure P-2 to the Writ Petition, under Section 13(4) of the SARFAESI Act, 2002;*

   ii. *Issue a writ of mandamus or any other appropriate writ, order* *or direction to Respondent No. 1 to forthwith release, de-attach and desist from asserting any right, lien, charge or security interest over the Petitioner's Movable Assets or any other assets kept or installed at the Petitioner's aforesaid Restaurant / Commercial Premises;*

iii. *Issue a writ of mandamus or any other appropriate writ, order or direction to Respondent No. 1 Bank to disclose to the Petitioner the exact details, description and particulars of the assets, vaguely described in the Impugned Possession Notice dated 29.12.2025 as 'STOCKS AND INTERIOR AND FURNISHING', and also supply to the Petitioner the documents such as loan agreements, hypothecation deed(s), supporting invoices, etc. on the basis of which the alleged 'security interest' has been created by Respondents No. 2 to 4 as per the Bank's official records;*

iv. *Issue a writ of mandamus or any other appropriate writ, order or direction to Respondent No. 5 to take cognizance of the criminal acts of Respondents No. 2 to 4, ostensibly in connivance with the officials of the Respondent No. 1 Bank, and initiate the requisite inquiry / investigation into the offences and to take strict action in accordance with law;*

v. *Issue a writ of mandamus or any other appropriate writ, order or direction to Respondent No. 6 to take cognizance of the arbitrary and illegal actions of Respondent No. 1, and to take such regulatory, supervisory and/or penal action as may be deemed appropriate in the facts and circumstances of the case* *and in accordance with law;…"*

2. It is stated by Mr. Garg, learned counsel for the petitioner, that in the present case, the petitioner is the owner of a restaurant at Unit No. S-63, Second Floor, Purvanchal Royal City, Sector CHI-V, Greater Noida, Uttar Pradesh – 201312 and all the movable assets installed thereunder.

3. The petitioner pursuant to an Agreement dated 16.06.2025 had granted operating and running rights to respondent Nos. 2, 3 and 4. The ownership of the premises as well as the movables, continue to vest with the petitioner.

4. The respondent No. 1 has now issued a Possession Notice dated 29.12.2025, seeking to recover its dues against the petitioner and the movables and fixtures installed at Unit No. S-63, Second Floor, Purvanchal Royal City, Sector CHI-V, Greater Noida, Uttar Pradesh – 201312 and all the movable assets installed there under.

5. It is stated by learned counsel for the petitioner that the same were mortgaged with the respondent No. 1 bank and hence, the respondent No. 1 is entitled to initiate SARFAESI proceedings and has done so. Therefore, the present petition has been filed.

6. Mr. Rout, learned standing counsel appears on advance notice on behalf of respondent No.1 and opposes the present petition on the ground that the action being taken by the respondent No. 1 is under Section 13(4) of the SARFAESI Act, 2002 and if the petitioner is aggrieved, the petitioner shall avail its right under Section 17 of the SARFAESI Act, 2002.

7. He relies on the judgment of ***State Bank of India v. Allwyn Alloys Pvt.***

Ltd, (2018) 8 SCC 120 and more particularly in para Nos. 8 and 9, which read as under:

> *"8. After having considered the rival submissions of the parities, we have no hesitation in acceding to the argument urged on behalf of the Bank that the mandate of Section 13 and, in particular, Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the 2002 Act"), clearly bars filing of a civil suit. For, no civil court can exercise jurisdiction to entertain any suit or proceeding in respect of any matter which a DRT or DRAT is empowered by or under this Act to determine and no injunction can be granted by any Court or authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the Act.*
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> *9. The fact that the stated flat is the subject matter of a registered sale deed executed by the respondent Nos. 5 and 6 (writ petitioners) in favour of respondent Nos. 2 to 4 and which sale deed has been deposited with the Bank along with the share certificate and other documents for creating an equitable mortgage and the Bank has initiated action in that behalf under the 2002 Act, is indisputable. If so, the question of permitting the respondent Nos.5 and 6 (writ petitioners) to approach any other forum for adjudication of issues raised by them concerning the right, title and interest in relation to the said property, cannot be*

countenanced. The High Court has not analysed the efficacy of the concurrent finding of fact recorded by the DRT and DRAT but opined that the same involved factual issues warranting production of evidence and a full-fledged trial. The approach of the High Court as already noted hitherto is completely fallacious and untenable in law."

8. He also draws my attention to a judgment of ***United Bank of India v. Satyawati Tandon and Others, (2010) 8 SCC 110***, and more particularly para No. 55, which reads as under:

> *"55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection."*

9. In the present case, the petitioner is seeking the declaration of action of respondent No. 1 as invalid on account of fraud having been committed.

10. The petitioner being the owner has not created any mortgage on the movables and fixtures and fittings installed at unit bearing No. Unit No. S-63, Second Floor, Purvanchal Royal City, Sector CHI-V, Greater

Noida, Uttar Pradesh – 201312.

11. The Hon'ble Supreme Court in the judgment of ***Central Bank of India & Anr. v. Smt. Prabha Jain & Ors.***, ***(2025) 4 SCC 38*** and more particularly at para No. 40 has observed as under:

> *"40. This Court in Electrosteel Castings Ltd. v. UV Asset Reconstruction Co. Ltd. & Ors. (2022) 2 SCC 573 has held that mere allegations of fraud in the plaint will not overcome the bar under Section 34. The said case involved the assignment deed whereby Section 13(2) notice was issued to the plaintiff. The plaintiff claimed the assignment deed to be fraudulent and filed the suit. This Court declared that the suit was barred under Section 34. The case is crucial because it hinged on the fact that there were only allegations of fraud in the plaint without anything further. The drafting was clever to overcome Section 34. Thus, if there is something more than mere allegations of fraud, certainly, the civil court's jurisdiction won't be ousted. The relevant paragraphs are:*
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> > *"9. Having considered the pleadings and averments in the suit more particularly the use of word "fraud" even considering the case on behalf of the plaintiff, we find that the allegations of "fraud" are made without any particulars and only with a view to get out of the bar under Section 34 of the SARFAESI Act and by such a clever drafting the*

plaintiff intends to bring the suit maintainable despite the bar under Section 34 of the SARFAESI Act, which is not permissible at all and which cannot be approved. Even otherwise it is required to be noted that it is the case on behalf of the plaintiff-appellant herein that in view of the approved resolution plan under IBC and thereafter the original corporate debtor being discharged there shall not be any debt so far as the plaintiff-appellant herein is concerned and therefore the assignment deed can be said to be "fraudulent".

10. The aforesaid cannot be accepted. By that itself the assignment deed cannot be said to be "fraudulent". In any case, whether there shall be legally enforceable debt so far as the plaintiff/appellant herein is concerned even after the approved resolution plan against the corporate debtor still there shall be the liability of the plaintiff and/or the assignee can be said to be secured creditor and/or whether any amount is due and payable by the plaintiff, are all questions which are required to be dealt with and considered by the DRT in the proceedings initiated under the SARFAESI Act.

11. It is required to be noted that as such in the *present case the assignee has already initiated the proceedings under Section 13 which can be challenged by the plaintiff-appellant herein by way of application under Section 17 of the SARFAESI Act before the DRT on whatever the legally available defences which may be available to it. We are of the firm opinion that the suit filed by the plaintiff-appellant herein was absolutely not maintainable in view of the bar contained under Section 34 of the SARFAESI Act. Therefore, as such the courts below have not committed any error in rejecting the plaint/dismissing the suit in view of the bar under Section 34 of the SARFAESI Act."*

(emphasis supplied)

12. The matter needs consideration.

13. For the said reasons, issue notice. Mr. Rout, learned standing counsel accepts notice on behalf of respondent No. 1, seeks and is granted 4 weeks to file a reply.

14. Let notice be issued to respondent Nos. 2 to 6 through all modes, including electronic, on the petitioner taking steps, within one week from today, returnable on 24.03.2026.

15. For the reasons stated above, till the next date of hearing, the Possession Notice dated 29.12.2025 is stayed.

JASMEET SINGH, J

JANUARY 22, 2026/sp