M/L.60.
May 07, 2026.
KAUSHIK

WPA No. 8192 of 2026

Debabrata Das & Anr.
Vs.
Anthum Investment and Infrastructure Ltd. & Ors.

Mr. Amitesh Chakraborty
… for the petitioner

None appears on behalf of the respondent-Bank nor is any adjournment prayed for on their behalf.

The grievance of the petitioner is directed against action taken by the concerned District Magistrate under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI).

It is submitted on behalf of the petitioner that there has been a violation of principles of natural justice in the District Magistrate passing an order under Section 14 of the SARFAESI Act, 2002. The petitioner alleges not to have been heard and submits that the impugned order is liable to be vacated. In view of the above, the petitioner prays for a blanket stay of all the proceedings, which have been initiated against the petitioner by the respondent bank.

The respondent bank remains unrepresented.

It is an admitted position that the petitioner had obtained a loan of approximately Rs. 43,00,000/- from the respondent no. 2 bank. Subsequent in view of the defaults committed by the petitioner, the respondent no. 2 had initiated proceedings under the SARFAESI Act, 2002. On 26th December, 2024, a possession notice has also been issued under the provisions of the SARFAESI Act, 2002. Ultimately, the concerned District Magistrate had issued an order on 24th February, 2026.

In *Agarwal Tracom (P) Ltd. v. Punjab National Bank, (2018) 1 SCC 626* it has been held as follows:

> ***32.*** *In United Bank of India v. Satyawati Tondon [United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110 : (2010) 3 SCC (Civ) 260] this Court had the occasion to examine in detail the provisions of the Sarfaesi Act and the question regarding invocation of the extraordinary power under Articles 226/227 in challenging the actions taken under the Sarfaesi Act. Their Lordships gave a note of caution while dealing with the writ filed to challenge the actions taken under the Sarfaesi Act and made the following pertinent observations which, in our view, squarely apply to the case on hand: (SCC p. 143, paras 42-45)*
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> *"42. There is another reason why the impugned order [Satyawati Tondon v. State of U.P., 2009 SCC OnLine All 2608] should be set aside. If Respondent 1 had any tangible grievance against the notice issued under Section 13(4) or action taken under Section 14, then she could have availed remedy by filing an application under Section 17(1). The expression "any person" used in Section 17(1) is of wide import. It takes within its fold, not only the borrower but also the guarantor or any other person who may be affected by the action taken under Section 13(4) or Section 14. Both, the Tribunal and the Appellate Tribunal are empowered to pass interim orders under Sections 17 and 18 and are required to decide the matters within a fixed time schedule. It is thus evident that the remedies available to an aggrieved person under the Sarfaesi Act are both expeditious and effective.*
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> *43. Unfortunately, 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 banks and other financial institutions. In our view,*

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.

44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance."

In view of the alternative efficacious remedy available to the petitioner under Section 17 of the SARFAESI Act, 2002, there is no reason as to why the Writ Court should entertain this writ petition. The petitioner is admittedly a defaulter and has failed to pay its dues.

In view of the above, WPA 8192 stands dismissed.

Liberty is granted to the petitioner to avail of its remedies before the appropriate Debt Recovery Tribunal, if so advised, in accordance with law.

(Ravi Krishan Kapur, J.)