

A.F.R.



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27912 of 2025

(In the matter of an application under Articles 226 & 227 of the Constitution of India)

Sree Metaliks Limited, Keonjhar *Petitioner(s)*

-versus-

Zonal Manager, State Bank of India, *Opposite Party (s)*
Bhubaneswar & Ors.

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. Sidharth Ray, Sr. Adv.*
with associates
Mr. Kshirod Kumar Sahoo, Adv.

For Opposite Party(s) : *Mr. Dillip Kumar Mohapatra, Adv.*
for O.Ps.1 & 2
Mr. Shibani Shankar Pradhan, Adv.
for O.P.3

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-07.03.2026

DATE OF JUDGMENT:-13.03.2026

1. In filing this Writ Petition, the Managing Director representing the Petitioner-Company which deals with in the manufacturing of iron billet, sponge iron and TMT Bars in the district of Keonjhar, has challenged the action of the Opposite Party Nos.1 & 2/ Bank in continuing the lien and / or appropriation of the Fixed Deposit Account of the Petitioner-Company bearing No.32920809610.



Apart from the above, the Petitioner has also sought for a direction from this Court to the Opposite Party Nos.1 & 2/ Bank for releasing the proceeds of the Fixed Deposit, account number of which is noted hereinabove, along with interest for the period from its maturity till the date of its actual release in its favour.

I. FACTUAL MATRIX OF THE CASE:

2. The essential facts, briefly stated, are that the Petitioner-Company, in the course of its business operations, availed various credit facilities from Opposite Party Nos.1 & 2/Bank as well as from the erstwhile State Bank of Bikaner and Jaipur, after fulfilling the prescribed eligibility criteria and executing the requisite loan documentation. As security for the financial assistance so extended, the Fixed Deposit Account in question was duly marked under lien in favour of the lending Bank. Subsequently, in the year 2017, the State Bank of Bikaner and Jaipur came to be amalgamated with Opposite Party Nos.1 & 2/Bank and, by operation of law, all its assets, liabilities, rights and obligations stood vested in Opposite Party Nos.1 & 2/Bank.
3. Prior thereto, in the years 2014 and 2015, Opposite Party Nos.1 & 2/Bank along with its subsidiary banks had, by executing Assignment Agreements dated 27.06.2014 and 27.02.2015, assigned their financial assets, including the loan accounts of the Petitioner, in favour of M/s. Edelweiss Asset Reconstruction Company Ltd., Mumbai. Consequently, all rights, title and interest in respect of the said financial assistance stood transferred to the said Asset Reconstruction Company.



4. It is further borne out from the record that the Petitioner-Company, having become financially distressed with effect from 2011, approached the Board for Industrial and Financial Reconstruction (BIFR) seeking revival and rehabilitation. The reference was admitted on 18.11.2014. Thereafter, with the coming into force of the Insolvency and Bankruptcy Code, 2016, SREI Equipment and Finance Ltd. initiated proceedings under Section 7 of the IBC before the National Company Law Tribunal, Kolkata Bench, alleging default on the part of the Petitioner-Company. The said application was admitted on 30.01.2017 and Corporate Insolvency Resolution Process (CIRP) was commenced. Pursuant to public announcement, claims were invited by the Interim Resolution Professional. A Resolution Plan submitted by the successful Resolution Applicant was placed before the Committee of Creditors and was approved by a voting share of 78.5%.
5. The learned NCLT, Kolkata Bench, by order dated 07.11.2017, approved the Resolution Plan under Section 31 of the IBC. The challenge to the said order before the National Company Law Appellate Tribunal, New Delhi, was dismissed by judgment dated 13.12.2018, thereby affirming the approval of the Resolution Plan and rendering it final and binding upon all stakeholders. It is pertinent to mention here that despite issuance of notice inviting claim, no claim was lodged by the SBI. The asset reconstruction company named EARCL to whom the Opposite Party Nos.1 & 2/ Bank has assigned all the loans / financial assistance of the Petitioner, has been paid all its dues as per the approved resolution plan. Further, the Opposite Party



Nos.1 & 2/ Bank owing to its assignment, has not raised any claim against the Petitioner-Company in the CIRP. The asset reconstruction Company EARCL has issued “No Dues Certificate” dated 22.04.2025 inter alia certifying that the Petitioner has paid all its dues in terms of the resolution plan and there remains no outstanding dues payable by the Petitioner. In the said certificate, the asset reconstruction company has also confirmed to have released all the securities, charges and guarantees created in its favour. In spite of payment of all the dues and issuance of the “No Dues Certificate”, the Opposite Party Nos.1 & 2-Bank appropriated the fixed deposit of the Petitioner even after its maturity in the month of July, 2021. Thereafter, despite several approaches of the Petitioner and filing of a complaint as per the provision of the R.B.I Integrated Ombudsman Scheme, 2021, since the Opposite Party Nos.1 & 2/ Bank did not release the proceeds of the fixed deposit in question in favour of the Petitioner, hence, the Petitioner has preferred the present Writ Petition.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

6. Learned counsel for the Petitioner earnestly made the following submissions in support of his contentions, as borne out from the Written Note of Submissions:
 - i) Learned Senior Advocate appearing on behalf of the Petitioner raised the following questions to be adjudicated by this Court:
 - a. *Whether, after assignment of the Petitioner's entire debt by Opposite Party Nos.1 & 2/Bank (SBI) in favour of Opposite Party No.3/Edelweiss Asset Reconstruction Company Ltd.,*



the assignor-Bank is legally justified in continuing to retain the Petitioner's Fixed Deposit under lien?

b. Whether, after approval of the Resolution Plan under Section 31 of the Insolvency and Bankruptcy Code, 2016, and issuance of a "No Dues Certificate" by the assignee creditor, the Opposite Party Nos.1 & 2/Bank retains any enforceable legal right to exercise lien or set-off against the Petitioner's Fixed Deposit?

c. Whether the continued retention and/or appropriation of the Petitioner's Fixed Deposit, notwithstanding extinguishment of the underlying debt, amounts to unlawful deprivation of property in violation of Article 300-A of the Constitution of India?

d. Whether a Bank which has not lodged its claim during the Corporate Insolvency Resolution Process (CIRP) can, after approval of the Resolution Plan, assert rights over securities or invoke a contractual or statutory lien dehors the scheme and binding effect of Section 31 of the IBC?

- ii) Learned Senior Counsel for the Petitioner further submits that the Opposite Party-Bank seeks to justify its action on the purported exercise of a "banker's lien." It is contended that in law a lien is merely a passive right of retention, enabling a creditor to retain possession of property until satisfaction of a legally enforceable debt. It does not confer an independent right of appropriation, nor can it exist in abstract detached from a subsisting liability. Under Section 171 of the Indian Contract Act, 1872, a banker's lien is recognized as a qualified right permitting the bank to retain securities or deposits of a customer only in respect of an existing and legally recoverable debt. The said right is accessory and incidental to the principal obligation; it does not create a substantive or autonomous



claim. It is well-settled that once the underlying debt is discharged, satisfied, assigned or otherwise extinguished, the ancillary right of lien automatically ceases to operate. Therefore, in absence of a subsisting enforceable liability, the continued retention of the Fixed Deposit under the guise of banker's lien is wholly untenable in law. He also relies on a decision of the Supreme Court in the case of *Syndicate Bank vs. Vijay Kumar*¹. He further contends that in the present case, the Opposite Party Nos.1 & 2/ Bank has no subsisting enforceable debt against the Petitioner. In the present context, the legal interest of the Opposite Party Nos.1 & 2/ Bank relating to the loan/debt in question is ceased due to the assignment of the loan to the Edelweiss ARC/ Opposite Party No.3. Upon assignment, the S.B.I was divested from all its rights in the debt or security. An assignor cannot retain any security once the debt is transferred. Therefore, continued retention of lien over the Fixed Deposit in question by the S.B.I is arbitrary, which amounts to exercise of rights without legal title.

- iii) It is further contended that once the entire liability stood discharged in terms of the approved Resolution Plan under Section 31 of the IBC and the assignee creditor has issued a categorical "No Dues Certificate" certifying full satisfaction of its claims and release of securities, no enforceable debt survives in law. In such circumstances, Opposite Party Nos.1 & 2/Bank cannot assert any independent right to continue lien over the matured proceeds of the Petitioner's Fixed Deposit. The continued retention of the amount, despite extinguishment of the underlying

¹ (1992) 2 SCC 330



liability, is asserted to be wholly without authority of law and amounts to the Bank deriving a pecuniary benefit without any subsisting legal entitlement. Such conduct squarely attracts the equitable doctrine of unjust enrichment, which prohibits a party from retaining a benefit at the expense of another in the absence of a lawful basis.

- iv) In support of the aforesaid submission, learned Senior Counsel places reliance upon the judgment of the Hon'ble Supreme Court in *Indian Council for Enviro-Legal Action v. Union of India*², wherein the doctrine of unjust enrichment was elaborately discussed and it was held that no person can retain a benefit without lawful authority, particularly when such retention results in wrongful gain to one and corresponding loss to another. It is further contended that the continued retention of the Petitioner's Fixed Deposit, despite extinguishment of the underlying liability, amounts to deprivation of property without authority of law and thus violates Article 300-A of the Constitution of India. Article 300-A embodies a constitutional mandate that no person shall be deprived of his property save by authority of law. In the absence of a subsisting enforceable debt, the Bank's action lacks statutory sanction and therefore cannot be sustained.
- v) Reliance is also placed on the decision of the Supreme Court in *K.T. Plantation Pvt. Ltd. v. State of Karnataka*³, wherein it was held that any deprivation of property must have a valid legal foundation and must satisfy the test of legality. It is thus urged that, once the debt has been

² (2011) 8 SCC 161

³ (2011) 9 SCC 1



fully satisfied and acknowledged as such by the assignee creditor, the continued withholding of the Fixed Deposit is arbitrary, unreasonable, and violative of Articles 14 and 300-A of the Constitution. The R.B.I Circular dated 13.09.2023 mandates that all securities must be released immediately upon repayment. Further, S.B.I's frequent silence to the repeated communications violates principles of transparency and fair banking practice under the R.B.I's Integrated Ombudsman Scheme, 2021. After approval of the Resolution Plan, all past dues, whether asserted or unasserted, stands extinguished. Since S.B.I admittedly did not file any claim in CIRP despite public notice, its lien and set-off rights stood extinguished automatically. The law is settled that after approval of a Resolution Plan under Section 31 of the IBC, all debts stand extinguished and no fresh claim can survive. He also relies on a decision of the Supreme Court in the case of *Ghanashyam Mishra & Sons Pvt. Ltd. Vrs. Edelweiss ARC*⁴ and in the case of *Essar Steel India Ltd. Vrs. Satish Kumar Gupta*⁵. Contractual lien cannot survive once the underlying debt is extinguished. Lien under Section 171 of the Contract Act is accessory to debt. Once debt stands extinguished, the lien ceases automatically

- vi) While summing up his argument, Ld. Senior Counsel appearing for the petitioner submits that the continued retention of the Fixed Deposit by Opposite Party Nos.1 & 2/Bank, despite complete discharge and statutory extinguishment of the underlying debt pursuant to an approved Resolution Plan under Section 31 of the IBC, is bereft of legal authority.

⁴ (2021) 9 SCC 657

⁵ (2020) 8 SCC 531



Once the principal obligation has stood satisfied and the creditor's claim has been conclusively settled within the framework of a binding insolvency resolution process, no residual or derivative right can survive in favour of the erstwhile lender. It is further submitted that a banker's lien, being purely accessory to a subsisting enforceable debt, cannot be invoked in isolation or perpetuated after the extinction of the primary liability. Any continued retention of the Petitioner's funds in such circumstances amounts to usurping the petitioner's right to property unsupported by statute or contract. Such action, it is submitted, is manifestly arbitrary and falls foul of Article 14 of the Constitution, as it lacks both rational nexus and lawful justification. Further, the Petitioner's Fixed Deposit constitutes property within the meaning of Article 300-A of the Constitution. Deprivation thereof, in the absence of a subsisting debt or statutory sanction, is unconstitutional. The constitutional guarantee under Article 300-A mandates that no person shall be deprived of his property save by authority of law, executive action unsupported by a valid legal foundation cannot withstand judicial scrutiny. In this backdrop, it is contended that the Bank's action amounts to unlawful deprivation and unjust enrichment, warranting interference under Article 226 of the Constitution. Learned Senior Counsel, therefore, prays that the writ petition be allowed and appropriate directions be issued for release of the Fixed Deposit along with accrued interest.



III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

7. On the contrary, learned Counsel for the Opposite Party Nos.1 & 2 made the following submissions:
 - i. Per contra, learned counsel appearing for Opposite Party Nos.1 & 2/Bank raises a preliminary objection as to the maintainability of the present Writ Petition. It is contended that the Petitioner has already invoked the remedy available under the Reserve Bank of India's Integrated Ombudsman Scheme by filing a complaint before the Banking Ombudsman on 11.09.2025 in respect of the very same subject matter which is presently pending for consideration. In view of the availability and pendency of such alternative statutory remedy, it is submitted that the Petitioner ought not to have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution. It is further submitted that the Petitioner had availed substantial loan facilities from Opposite Party Nos.1 & 2/Bank and, as part of the security arrangement, it had voluntarily created a lien over the Fixed Deposit in question in order to secure repayment of the outstanding dues. The said lien was contractually created and forms part of the security structure underlying the credit facilities extended to the Petitioner. In such circumstances, the Counsel for bank contends that the Petitioner cannot seek release of the matured proceeds of the Fixed Deposit along with accrued interest as a matter of right, and the writ petition is liable to be dismissed both on the ground of maintainability and on merits. He further contends that a person is



entitled to get loan / advances against his term deposit / fixed deposit as per the guidelines of the Reserve Bank of India vide its Circular No.RBI/2007-2008-41 DBOD No.DIR BC.7/13.03.00-2006/07 dated 02.07.2007.

- ii. Learned counsel for Opposite Party Nos.1 & 2 further submits that the Bank has issued a Master Circular dated 12.12.2022 governing loans and advances against securities. As per the said circular, credit facilities may be sanctioned against time deposits and fixed deposits subject to compliance with the prescribed procedures and documentation requirements. It is specifically provided therein that, where advances are granted against such deposits, an appropriate lien or hold must be duly recorded in the Bank's system against the concerned securities, including fixed deposits. Placing reliance on Clause 10 of the said Master Circular, it is contended that the marking of lien over the Petitioner's Fixed Deposit was in consonance with established banking practice and internal regulatory guidelines. The Bank further asserts that such lien, having been created as part of the security mechanism for the loan facilities availed by the Petitioner, was validly recorded and could be enforced in accordance with the contractual terms and applicable banking norms. It is further submitted that the Petitioner-Company had availed extensive credit facilities from Opposite Party Nos.1 & 2/Bank, involving substantial financial exposure running into several crores of rupees. Despite the contractual obligations governing repayment, the Petitioner allegedly defaulted in servicing the loan accounts within the stipulated time



frame. Owing to continued irregularity and non-liquidation of the outstanding dues, the accounts were classified as Non-Performing Assets (NPA) in accordance with the prudential norms and asset classification guidelines issued by the Reserve Bank of India. Such classification was a consequence of persistent default and was effected strictly in conformity with the applicable regulatory framework. and the Bank in 2014/15 filed Original Applications vide O.A No.155/2014 and the O.A. No.83/2014 respectively before the D.R.T, Cuttack.

- iii. It is further contended that upon the Petitioner's persistent default in discharging its repayment obligations, Opposite Party Nos.1 & 2/Bank, in accordance with their statutory entitlement under the SARFAESI Act and the contractual terms governing the loan facilities, executed Assignment Agreements in favour of Opposite Party No.3/Edelweiss Asset Reconstruction Company Ltd. thereby transferring the financial assets relating to the Petitioner's loan accounts. By operation of the said assignment agreement, the entirety of the Bank's right, title and interest in the debt, together with all incidental and underlying securities, stood vested in the assignee. In law, the assignee stepped into the shoes of the assignor-bank and acquired all enforceable rights in respect of the financial assistance extended to the Petitioner. Consequently, Opposite Party No.3 assumed the position of creditor and proceeded to pursue appropriate recovery proceedings before the Debts Recovery Tribunal and other competent fora in substitution of Opposite Party Nos.1 & 2/Bank. After acquiring the assets of the borrower from the Bank the assignee / Opposite Party No.3



participated in the insolvency proceeding initiated by one SREI and the present representative of the Petitioner-Company being the successful resolution applicant has acquired the present Petitioner-Company by paying the dues of the Opposite Party No.3.

- iv. It is further submitted that though Opposite Party No.3 has issued a "No Dues Certificate" in favour of the Petitioner-Company/(i.e. Annexure-8), the same does not *ipso facto* bind Opposite Party Nos.1 & 2/Bank, inasmuch as no such certificate has been issued by them. According to the Bank, the Petitioner cannot predicate its claim for release of the Fixed Deposit amount solely on the basis of a certificate issued by the assignee creditor.
- v. It is further contended that the Fixed Deposit in question did not form part of the assets expressly transferred under the relevant Deed of Assignment executed in favour of Opposite Party No.3. The assignment, according to the Bank, pertained to the financial asset and underlying interest in the loan account, but did not encompass the term deposit itself. Reliance is placed on the scheme of the SARFAESI Act, 2002 to contend that certain categories of security or lien, particularly in respect of money or deposits governed by the Indian Contract Act, may not automatically stand transferred unless specifically included.
- vi. Elaborating further, learned counsel for Opposite Party Nos.1 & 2/Bank contends that the Bank retained an independent and legally enforceable interest in the Fixed Deposit, which had been consciously and contractually placed under lien by the Petitioner as collateral



security for the credit facilities availed. It is submitted that such lien constitutes a distinct contractual right, traceable to Section 171 of the Indian Contract Act, 1872, and is not automatically extinguished unless expressly waived or legally displaced. According to the Bank, the assignment of the financial asset in favour of the Asset Reconstruction Company did not *ipso facto* result in transfer of the term deposit itself, nor did it divest the Bank of its pre-existing security interest therein.

- vii. It is further contended that the right of set-off, being an incident of the banker–customer relationship, entitles the Bank to adjust monies lying in deposit against outstanding dues payable by the customer, provided mutuality of obligation exists. The Bank does assert that the appropriation of the Fixed Deposit was effected in exercise of this well-recognized banking right and was not dependent upon any subsequent certification by the assignee creditor. The “No Dues Certificate” issued by Opposite Party No.3 cannot operate to extinguish rights which, according to the Bank, were neither assigned nor relinquished.
- viii. The Bank further submits that at the time of assignment of the debt, it had already sustained substantial financial diminution by accepting a significant haircut. In such circumstances, it is contended that the adjustment of the Fixed Deposit was not only contractually permissible but also equitable, preventing unjust advantage to the borrower who had admittedly defaulted. In so far as the reliance placed by the Petitioner on the RBI Circular dated 13.09.2023, learned



counsel submits that the same has no application in the present case, as Opposite Party Nos.1 & 2/Bank have not issued any “No Dues Certificate” in favour of the Petitioner. It is contended that the regulatory instruction concerning release of securities presupposes full satisfaction of dues vis-à-vis the concerned secured creditor. In the present case, according to the Bank, its independent security interest over the Fixed Deposit remained unaffected by the assignment of the loan account.

- ix. It is also contended that the Bank was under no statutory compulsion to lodge a claim before the Resolution Professional during the CIRP in respect of the Fixed Deposit, as the said deposit allegedly fell outside the scope of the assigned financial asset. Placing reliance upon the scheme of the SARFAESI Act, it is contended that the Bank’s rights in respect of money or deposits under lien are preserved and may be exercised independently of insolvency proceedings, particularly where such rights emanate from contractual stipulation.
- x. On these premises, it is contended that the appropriation of the Fixed Deposit was lawful, based in contractual and statutory rights, and cannot be characterized as arbitrary or unconstitutional. Learned counsel, therefore, submits that the writ petition is devoid of merit and liable to be dismissed. In his opposition, learned counsel for the Opposite Party No.3 also submits that since the Petitioner failed to repay the financial assistance, the Opposite Party Nos.1 & 2/ Bank filed Original Applications bearing O.A Nos.483 of 2014 before the learned D.R.T, Cuttack for recovery of debts from the Petitioner. During



pendency of the proceeding, pursuant to the provision under Section 5(1) of the SARFAESI Act, the financial asset pertaining to the account of the Petitioner along with underlying interest/ security arising out of the financial assistance granted by the State Bank of India, State Bank of Bikaner and Jaipur, Andhra Bank and Allahabad Bank to the Petitioner was acquired by the present Opposite Party No.3 by way of separate Assignment Agreements. In the year 2026, one SREI Equipments and Finance Ltd. filed an application under Section 7 of the IBC before the NCLT, Kolkata Bench, which was admitted on 30.01.2017 and consequentially Corporation Insolvency Resolution Process (CIRP) was initiated against the Petitioner. During course of hearing of the CIRP, the Insolvency Professionals appointed therein filed Resolution Plan before the learned NCLT for approval which was approved by the Committee of Creditors of Sree Metaliks Ltd. with a voting shares of 78.53%. Consequentially, the learned NCLT vide order dated 07.11.2017 approved the Resolution Plan placed by the Insolvency Professional. Pursuant to the Resolution Plan which was approved by the learned NCLT, Kolkata Bench, Kolkata, the Petitioner paid all its dues in terms of the Resolution Plan in respect of share of the Opposite Party No.3, who stepped into the shoes of the State Bank of India, State bank of Bikaner and Jaipur, Andhra Bank and Allahabad Bank by virtue of Assignment agreements and accordingly, the Opposite Party No.3 issued "No Dues Certificate" on 22.04.2025 by releasing all securities, charges and guarantees created and subsisting in favour of the Opposite Party No.3. Thereafter, the Opposite Party



No.3 has also filed interim application for withdrawal of Original Application i.e. O.A No.483 of 2014 confining to its claim before the learned D.R.T, Cuttack which is still pending adjudication.

- xi. Since the present Writ Petition is based on two assignment agreements, Annexure-2 being the Assignment Agreement of the State Bank of Bikaner and Jaipur and Annexure-2/A being the Assignment Agreement of the State Bank of India. The Assignment Agreements are distinct and different and by two different institutions. In the Assignment Agreement of the State Bank of Bikaner and Jaipur some fixed deposits have been assigned as security which is reflected at page 43 of the Writ Petition. However, in the Assignment Agreement of the State Bank of India there was no mentioning of any Fixed Deposit as Security which is reflected at page 74 of the Writ Petition.
- xii. Since there is no mentioning of any Fixed Deposits as security in the Assignment Agreement of the State Bank of India, the present Opposite Party has never dealt with the said Fixed Deposits in any manner. As on date, since the Opposite Party No.3 has already issued "No Dues Certificate" in favour of the Petitioner, the Opposite Party No.3 does not have any charge and/ or encumbrances on the said Fixed Deposits and as such the Opposite Party No.3 has no objection on the releasing of the said Fixed Deposit amount in favour of the Petitioner. However, the Opposite Party No.3 is not aware of any fact whether the Petitioner has availed any other loans from the State Bank of India and whether the State Bank of India has any encumbrances in respect of the said facilities on the Fixed Deposits.



IV. THIS COURT'S REASONING AND ANALYSIS:

8. The present Writ Petition has been filed by the Managing Director representing the Petitioner-Company, which is engaged in the business of manufacturing iron billets, sponge iron and TMT bars in the district of Keonjhar, assailing the action of Opposite Party Nos.1 & 2/Bank in continuing lien and appropriating the proceeds of the Petitioner's Fixed Deposit Account No. 32920809610 even after its maturity. The Petitioner further seeks a direction for release of the matured amount along with accrued interest.
9. The essential facts are not in serious dispute. The Petitioner had availed various credit facilities from Opposite Party Nos.1 & 2/Bank. The fixed deposit in question was marked under lien as security for such facilities. In the years 2014 and 2015, by virtue of Assignment Agreements executed under Section 5(1) of the SARFAESI Act, 2002, the Bank assigned its financial assets, including the Petitioner's loan account, in favour of M/s. Edelweiss Asset Reconstruction Company Ltd. (Opposite Party No.3). It is admitted that thereafter Corporate Insolvency Resolution Process (CIRP) was initiated against the Petitioner under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), the Resolution Plan was approved by the learned NCLT, Kolkata Bench on 07.11.2017, and the same was affirmed by the learned NCLAT. Opposite Party No.3, as assignee creditor, participated in the CIRP. Upon implementation of the approved Resolution Plan, Opposite Party No.3 issued a "No Dues Certificate" dated 22.04.2025 certifying full satisfaction of its claims and release of securities.



10. The controversy centers around the legality of the Bank's continued lien and appropriation of the matured fixed deposit in July, 2021, despite assignment of debt and subsequent approval of a Resolution Plan under Section 31 of the IBC. The first issue is the nature and scope of a banker's lien. Section 171 of the Indian Contract Act, 1872 recognizes a banker's general lien. The jurisprudence is settled that a banker's lien is in the nature of an implied pledge and is accessory to a subsisting and legally enforceable debt. In *Syndicate Bank v. Vijay Kumar*⁶, the Supreme Court has held that the banker's lien is not an absolute or independent right; it is exercisable only in respect of a lawful and subsisting debt. Once the underlying debt ceases to exist, the lien, being incidental, cannot survive.
11. In the present case, the Opposite Party Nos.1 & 2/Bank admittedly executed Assignment Agreements in favour of Opposite Party No.3 transferring their financial assets pertaining to the Petitioner. An assignment, in law, transfers to the assignee all rights, title and interest in the debt and its incidental securities, unless expressly reserved. Upon such assignment, the assignor ceases to be a creditor in respect of the assigned debt. No material has been placed before this Court to demonstrate any reservation of rights in respect of the fixed deposit in question.
12. The legal effect of approval of a Resolution Plan under Section 31 of the IBC is no longer res integra. In *Ghanashyam Mishra & Sons Pvt. Ltd. v.*

⁶ (1992)2SCC331



*Edelweiss Asset Reconstruction Co. Ltd*⁷, the Supreme Court authoritatively held that once a Resolution Plan is approved, all claims, whether filed or not, stand extinguished and no person is entitled to initiate or continue proceedings in respect of such claims.

13. The Resolution Plan binds all stakeholders and provides a clean slate to the successful resolution applicant. This principle was reiterated in *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, wherein it was held that undecided and unclaimed liabilities cannot be enforced after approval of the Plan which is extracted herein below:

“Section 31(1) of the Code makes it clear that once a resolution plan is approved by the Committee of Creditors it shall be binding on all stakeholders, including guarantors. This is for the reason that this provision ensures that the successful resolution applicant starts running the business of the corporate debtor on a fresh slate as it were. In State Bank of India v. V. Ramakrishnan, 2018 (9) SCALE 597, this Court relying upon Section 31 of the Code has held: “22. Section 31 of the Act was also strongly relied upon by the Respondents. This Section only states that once a Resolution Plan, as approved by the Committee of Creditors, takes effect, it shall be binding on the corporate debtor as well as the guarantor. This is for the reason that otherwise, Under Section 133 of the Indian Contract Act, 1872, any change made to the debt owed by the corporate debtor, without the surety’s consent, would relieve the guarantor from payment. Section 31(1), in fact, makes it clear that the guarantor cannot escape payment as the Resolution Plan, which has been approved, may well include provisions as to payments to be made by such guarantor. This is perhaps the reason that Annexure VI(e) to Form 6 contained in the Rules and Regulation 36(2) 111referred to above, require information as

⁷ Civil Appeal No. 8129 of 2019 @ para 95



to personal guarantees that have been given in relation to the debts of the corporate debtor. Far from supporting the stand of the Respondents, it is clear that in point of fact, Section 31 is one more factor in favour of a personal guarantor having to pay for debts due without any moratorium applying to save him."

In the case at hand, Opposite Party Nos.1 & 2/Bank did not lodge any claim in the CIRP. The assignee creditor, Opposite Party No.3, participated in the CIRP, received payment in terms of the approved Resolution Plan and issued a categorical "No Dues Certificate" releasing all securities in its favour. Consequently, the principal debt stood satisfied and extinguished in terms of a binding statutory process. Once the principal obligation stood discharged, the accessory right of lien under Section 171 of the Contract Act automatically ceased.

14. The contention of the Bank that the fixed deposit was outside the purview of assignment and therefore could be appropriated independently cannot be accepted. A lien or right of set-off cannot operate in the absence of a legally recoverable debt. After assignment of the financial asset and extinguishment of liability under an approved Resolution Plan, no enforceable mutual debt survived between the Petitioner and Opposite Party Nos.1 & 2/Bank. The doctrine of set-off presupposes mutual and subsisting obligations between the same parties. Such mutuality is conspicuously absent in the present case as has been borne out of record.
15. The submission based on Section 31 of the SARFAESI Act, 2002 is misconceived and unsustainable. A plain reading of the said provision would reveal that it merely enumerates certain classes of assets and



transactions to which the provisions of the Act shall not apply. It is essentially exclusionary in character and does not, by any stretch of interpretation, confer an independent or substantive right upon a secured creditor to appropriate a borrower's deposit after having divested itself of the underlying financial asset, particularly when such debt has subsequently stood extinguished under a statutory insolvency framework.

16. Section 31 of the SARFAESI Act cannot be construed as a reservoir of enforcement power detached from the existence of a subsisting and legally recoverable debt. The scheme of the Act predicates enforcement of security interest upon the continued existence of a financial liability. Once the debt has been assigned and thereafter resolved and satisfied in accordance with an approved Resolution Plan under the Insolvency and Bankruptcy Code, 2016, the very foundation for invocation of ancillary or derivative rights ceases to exist.
17. It is equally apposite to note that the IBC, 2016, being a subsequent and comprehensive legislation governing insolvency resolution, contains a sweeping non obstante clause under Section 238, which accords it overriding effect over any inconsistent provision contained in any other law for the time being in force. The jurisprudence emanating from the Supreme Court consistently affirms that, upon approval of a Resolution Plan under Section 31 of the IBC, the claims and rights of all stakeholders stand conclusively determined and are binding in their entirety. The rights of creditors thereafter stand crystallized strictly in terms of the



approved Plan, and no creditor is permitted to assert a claim dehors or contrary to its terms.

18. In such circumstances, any reliance upon Section 31 of the SARFAESI Act to justify retention or appropriation of the Petitioner's Fixed Deposit after the debt has stood extinguished under the IBC is legally untenable and runs counter to the overriding statutory mandate of the insolvency regime. The appropriation of the matured fixed deposit in July, 2021, therefore, lacked statutory backing. Article 300-A of the Constitution mandates that no person shall be deprived of property save by authority of law. A Constitution bench of the Supreme Court in *K.T. Plantation Pvt. Ltd. v. State of Karnataka*.⁸ has held that deprivation of property must be supported by a valid law and must satisfy the test of legality. In absence of a subsisting debt or statutory authority, the continued retention of the Petitioner's deposit amounts to unlawful deprivation. Such action is also arbitrary and offends Article 14 of the Constitution. The said dictum may be extracted herein below:

“ Right to life, liberty and property were once considered to be inalienable rights under the Indian Constitution, each one of these rights was considered to be inextricably bound to the other and none would exist without the other. Of late, right to property parted company with the other two rights under the Indian Constitution and took the position of a statutory right. Since ancient times, debates are going on as to whether the right to property is a “natural” right or merely a creation of ‘social convention’ and ‘positive law’ which reflects the centrality and uniqueness of this right. Property rights at

⁸ 2011 (9) SCC 146



times compared to right to life which determine access to the basic means of sustenance and considered as prerequisite to the meaningful exercise of other rights guaranteed under Article

Eminent thinkers like Hugo Grotius, Pufendorf, John Locke, Rousseau and William Blackstone had expressed their own views on the right to property. Lockean rhetoric of property as a natural and absolute right but conventional in civil society has, its roots in Aristotle and Aquinas, for Grotius and Pufendorf property was both natural and conventional. Pufendorf, like Grotius, never recognized that the rights of property on its owners are absolute but involve definite social responsibilities, and also held the view that the private property was not established merely for the purpose "allowing a man to avoid using it in the service of others, and to brood in solitude over his hoard or riches." Like Grotius, Pufendorf recognized that those in extreme need may have a right to the property of others. For Rousseau, property was a conventional civil right and not a natural right and private property right was subordinate to the public interest, but Rousseau insisted that it would never be in the public interest to violate them. With the emergence of modern written constitutions in the late eighteenth century and thereafter, the right to property was enshrined as a fundamental constitutional right in many of the Constitutions in the world and India was not an exception. Blackstone declared that so great is the regime of the law for private property that it will not authorize the land violation if it - no, not even for the general good of the whole community. Writings of the above-mentioned political philosophers had also its influence on Indian Constitution as well."

19. The submission regarding pendency of a complaint before the Banking Ombudsman does not bar exercise of writ jurisdiction in the facts of the present case. The issue raised is purely legal, based on admitted



documents and statutory interpretation concerning the effect of assignment and an approved Resolution Plan under the IBC. The alternative remedy is neither efficacious nor a bar where fundamental legal infirmity is demonstrated. Where the impugned action of the Opposite party is ex facie without jurisdiction, in violation of principles of natural justice, or suffers from a patent error of law going to the root of the matter, the High Court would be justified in exercising its constitutional jurisdiction notwithstanding availability of another forum. The Supreme Court in *Whirlpool Corporation v. Registrar of Trade Marks*⁹ authoritatively held that writ jurisdiction can be invoked despite availability of an alternative remedy in three contingencies: (i) where the writ petition seeks enforcement of fundamental rights; (ii) where there has been violation of principles of natural justice; and (iii) where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. This principle has been consistently reaffirmed in many of its subsequent decisions.

20. In the present case, the grievance of the Petitioner is not merely factual but strikes at the legality of the Bank's action in retaining and appropriating the Fixed Deposit despite assignment of debt and extinguishment of liability under an approved Resolution Plan under Section 31 of the IBC. The issue is one of jurisdictional competence and statutory interpretation, purely based on admitted documents. The continuation of lien in absence of a subsisting enforceable debt is alleged

⁹ 1998 (8) SCC 1



to be without authority of law and violative of Article 300-A of the Constitution. Where the action impugned is demonstrably without legal foundation and results in unlawful deprivation of property, relegating the Petitioner to an alternative forum would amount to perpetuating further illegality. In such circumstances, the alternative remedy cannot be regarded as efficacious so as to oust or restrict the constitutional jurisdiction of this Court under Article 226.

V. CONCLUSION:

21. For the reasons aforesaid, this Court holds that after assignment of the debt in favour of Opposite Party No.3 and after approval and implementation of the Resolution Plan under Section 31 of the IBC resulting in issuance of a "No Dues Certificate," Opposite Party Nos.1 & 2/Bank has no legal authority to continue lien or appropriate the Petitioner's Fixed Deposit. The impugned action is unsustainable in law.
22. Accordingly, the Writ Petition stands allowed. Opposite Party Nos.1 and 2/Bank are directed to release the proceeds of Fixed Deposit Account No.32920809610 along with accrued interest from the date of its maturity till the date of actual payment within a period of eight weeks from the date of receipt of this judgment. No order as to costs.
23. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 13th March, 2026*