



2026:AHC:109014

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**FIRST APPEAL FROM ORDER No. - 994 of 2026**

M/S Srijan Hospital

.....Appellant(s)

Versus

Bank Of Baroda

.....Respondent(s)

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Counsel for Appellant(s) : Anil Kumar Rai, Rishi Kant Rai  
Counsel for Respondent(s) :

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**Court No. - 39**

**HON'BLE ABDUL SHAHID, J.**

1. Heard learned counsel for the appellant/plaintiff.
2. Learned counsel for the appellant has submitted that the entire loan amount was not disbursed and that, even prior to the disbursement of the entire loan amount, recovery proceedings were initiated against the appellant. Hence, he filed the original civil suit before the learned trial court.
3. He has submitted that the sanctioned loan amount was Rs. 2,84,50,000/- (Rupees Two Crores Eighty-Four Lakhs Fifty Thousand only), whereas the disbursed amount was Rs. 1,95,00,000/- (Rupees One Crore Ninety-Five Lakhs only). However, as per Annexure No. 4, being the true photocopy of the terms and conditions relied upon by the appellant, it is mentioned as "Facility – Term Loan (Fresh) under LGSCAS" with a limit of Rs. 259.50 lakhs (Rupees Two Crores Fifty-Nine Lakhs and Fifty Thousand only) for the purpose of construction of a building, furnishing, and purchase of equipment. Whereas, in the said agreement, which is a memorandum of entry, the nature of the facility has been mentioned as: (i) Cash Credit (Hypothecation of Stocks and Book Debts) – Rs. 25.00 lakhs; and (ii) Term Loan (Fresh) under LGSCAS – Rs. 259.50 lakhs. Hence, it appears that there was a cash credit limit of Rs. 25 lakhs and a term loan of Rs. 259.50 lakhs.
4. Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002) is quoted hereinbelow:

*"34. Civil court not to have jurisdiction. -No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993)."*

5. It is also mentioned in Section 35 of the SARFAESI Act, 2002, which is quoted hereinbelow:

*"35. The provisions of this Act to override other laws.-The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."*

6. The learned trial court rejected Application No. 6-C and disposed of Objection No. 35-C. The application for temporary injunction filed by the appellant/plaintiff under Order XXXIX Rules 1 and 2 C.P.C. was rejected by a detailed order dated 21.02.2026, which is under challenge before this Court in the present appeal.

7. The learned trial court specifically held that the purpose and utilization of the loan are required to be considered. The defendant submitted Paper No. 19-C. As per the said document, the bank had sanctioned the LGSCAS loan guarantee scheme for the Covid-affected healthcare sector for construction of the building, furnishing, and purchase of equipment.

8. The loan amount and cash credit limit were accordingly provided. The contention of the appellant/plaintiff is that he received verbal assurance and, therefore, converted the project from a hospital to a hotel. Such conduct amounts to a fundamental breach, as the loan amount and the cash credit limit were sanctioned specifically for construction of a building for the Covid-affected healthcare sector, including furnishing and purchase of equipment. However, without obtaining any prior approval for change of purpose, the appellant himself converted the hospital project into a hotel project. The plaintiff/appellant has already constructed a G+5 storeyed hotel

in place of the aforesaid hospital building.

9. The learned trial court has relied upon the law laid down by the Supreme Court in *M/S Gujarat Bottling Co. Ltd. & Ors. vs. The Coca Cola Co. & Ors.*, wherein it has been held that a person approaching a court of law for grant of injunction must act bona fide and must approach the Court with clean hands.

10. The bank placed before the learned trial court a copy of the order passed by the learned Additional District Magistrate (Finance and Revenue), Varanasi Zone, District Varanasi in Case No. 7873 of 2025 dated 24.12.2025, whereby an order for taking possession of the mortgaged property in question was passed.

11. Learned counsel for the bank has also relied upon Section 34 of the SARFAESI Act, 2002, contending that the civil court has no jurisdiction in the matter. An appropriate order under Section 14 of the Act has already been passed by the competent authority with regard to the property in question.

12. The defendant has also brought on record Memo of Appeal No. 33 of 2026 (*M/s Srijan Hospital Versus Bank of Baroda*). The learned trial court has further held that the plaintiff had concealed the fact of filing the said appeal in the pleadings before the trial court.

13. In view of the aforesaid facts, circumstances, and provisions of law, it clearly appears that the original suit filed by the appellant is barred by Section 34 of the SARFAESI Act, 2002. The civil court has no jurisdiction to entertain the suit. The property in dispute has already been mortgaged, proceedings under the SARFAESI Act, 2002 have already been initiated, and possession of the mortgaged property has already been transferred vide order dated 24.12.2025.

14. The competent authority has already passed an order under Section 14 of the SARFAESI Act, 2002. The original suit has been filed with concealment of material facts. The appellant/plaintiff has materially changed the purpose of the aforesaid loan. He had entered into an agreement with the respondent-bank under the LGSCAS Loan Guarantee Scheme for construction of a building, furnishing, and purchase of equipment for the Covid-affected healthcare sector.

15. The appellant did not approach the learned trial court with clean hands and filed the original suit while concealing material facts.

16. There is neither any illegality nor perversity in the impugned order dated 21.02.2026 passed by the learned Civil Judge (Senior Division), Varanasi in Original Suit No. 1758 of 2025 (M/s Srijan Hospital Versus Bank of Baroda). Accordingly, the impugned order dated 21.02.2026 is hereby affirmed.

17. The present appeal lacks merit and is liable to be dismissed. It is dismissed accordingly.

**May 11, 2026**  
K.K. Maurya

**(Abdul Shahid,J.)**