2026:AHC-LKO:40137-DB

A.F.R.

Reserved on May 7, 2026

Delivered on June 04, 2026

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

WRIT - C No. - 6374 of 2024

M/S R.S. Contractors And Engineers Thru. Its Partner Sri Sumit Kumar And 2 Others ……...…Petitioner(s)

Versus

Debts Recovery Tribunal Lko. And 2 Others ……Respondent(s)

Counsel for Petitioner(s) : Apoorv Dev, Ashutosh Chaubey, Prashant Kumar Singh

Counsel for Respondent(s) : Praveen Dwivedi, Alok Saxena

Court No. - 2

HON'BLE SHEKHAR B. SARAF, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.

(Per: Hon'ble Abdhesh Kumar Chaudhary, J.)

1. Heard Shri Apoorv Dev, learned Counsel appearing on behalf of the petitioners, Shri Alok Saxena, learned Counsel appearing on behalf of the respondent no. 1 as well as Shri Praveen Dwivedi, learned Counsel appearing on behalf of respondent nos. 2 and 3 and perused the record.

2. The present writ petition under Article 226 of the Constitution of India has been filed by the petitioners, seeking direction to the

respondent- Canara Bank to return the original title deed to one of the petitioners, who had deposited the same at the time of mortgage. Further, direction has been sought against the respondent- Canara Bank to issue No Dues Certificate in favour of the petitioners and also to pay compensation cost of Rs. 5,000/- per day with effect from 11.11.2023 to the actual date of release of title deed as per the Reserve Bank of India Circular dated 13.09.2023.

3. The factual matrix of the present *lis* lie in a narrow compass, the petitioner no. 1 is a partnership firm and the petitioner nos. 2 and 3 are its partners. Apparently, the firm availed a financial facility to the tune of Rs.70 Lacs from the respondent- Canara Bank and the petitioner no. 2 stood as a Guarantor and petitioner no. 3 mortgaged his property bearing Plot No.46, Khasra No.1581, Gopal Vihar, Village Malyana, Pargana, Tehsil and District Meerut, ad-measuring area 142.56 square meter, by depositing the original title deed with the respondent- Canara Bank.

4. Presumably, the petitioners failed to service the said financial facility granted by the respondent- Canara Bank and approached the respondent- Canara Bank for settlement of their dues and also offered for O.T.S. proposal. However, the respondent- Canara Bank did not accede to the request of the petitioners and in the intervening period got published a sale notice for action of the mortgaged property and also obtained an order under Section 14 of the SARFAESI Act, 2002 so as to obtain the physical possession of the property.

5. Being aggrieved with the aforesaid action of the respondent- Canara Bank, the petitioners approached learned Debts Recovery Tribunal, Lucknow (hereinafter referred to as the 'DRT') under Section 17 of the SARFEASI Act, 2002 by filing Securitization Application No. 443 of 2022. Admittedly, during the pendency of the said securitization application, the respondent-Canara Bank sold the mortgaged property to the highest bidder for an amount of Rs. 62 Lacs and during the time the amount was being deposited by the highest bidder, the petitioners

expressed their willingness to settle by making payment of Rs. 70 Lacs to the respondent- Canara Bank.

6. The learned DRT, while considering the aforesaid request of the petitioners for settlement for an amount of Rs.70 Lacs, vide an order dated 27.07.2023 directed the petitioners to deposit a sum of Rs. 20 Lacs within one week and further to pay rest of the amount of Rs.50 Lacs within two months *i.e.* before 26.09.2023.

7. The said order dated 27.07.2023 was modified on the same day during post-lunch session, wherein the learned DRT directed the petitioners not only to pay the aforesaid amount but also to pay additional amount of interest as applicable to a FDR on the 25% amount deposited by the highest bidder/auction purchaser to the respondent- Canara Bank.

8. As per the averments made in the writ petition, the petitioners have deposited an mount of Rs. 22,50,000/- on 22.09.2023, however, failed to make payment of the entire amount, which led to filing of an application for extension of time by the petitioners.

9. The learned DRT extended the time for depositing the entire amount to 31.10.2023 and also directed that if the petitioners deposit 60% of the agreed amount, then the respondent- Canara Bank shall restore the physical possession of the premises to the petitioners.

10. Apparently, the petitioners paid last installment of Rs. 28,50,000/- on 11.10.2023 and also paid an additional amount of Rs.5,000/- towards the interest on the deposited bid amount of auction purchaser, which was accepted by the respondent- Canara Bank and in pursuance to the directions issued by the learned DRT also restored the physical possession of the property to the petitioners.

11. The record further reveals that the respondent- Canara Bank was unhappy with the order passed by the learned DRT with respect to extension of time granted to the petitioners for deposit of the entire amount and as such unsuccessfully filed a writ petition before this Court bearing Matters Under Article 227 No. 5154 of 2023; which was dismissed as not

pressed vide an order dated 11.10.2023. Yet another writ petition was preferred by the respondent-Bank bearing Writ-C No. 9217 of 2023, challenging the extension order of the learned DRT, however, again the same was dismissed on the ground of alternative remedy vide an order dated 19.10.2023.

12. In the aforesaid background, the petitioners sent a representation dated 23.01.2024 to the respondent- Canara Bank for return of the original title deed and compensate the petitioners, as per the RBI Circular. The said representation dated 23.01.2024 was followed by a reminder dated 22.06.2024, however, since no response was given by the respondent-Canara Bank, the present writ petition has been filed.

13. Notice was issued to the respondent- Canara Bank vide an order dated 29.07.2024 and they were directed to file a counter affidavit. Subsequently, counter affidavit was filed by the respondent- Canara Bank and accordingly, rejoinder affidavit was also filed by the petitioners.

14. The respondent- Canara Bank took a ground in their counter affidavit that there had been deliberate and fraudulent concealment of facts by the petitioners in the writ petition inasmuch as, according to learned Counsel for the respondent- Canara Bank, four loan accounts were sanctioned in favour of the petitioners, bearing OCC Loan Account No. 4207261000033, WCTL Loan Account No. 4207746000001, FITL Loan Account No. 4207747000023 and Covid FITL Loan Account No. 4207710000039 amongst which amount of Loan Account No. 4207261000033 has only been paid and, as far as other loan accounts are concerned, charge of secured asset continues and liability subsists and as such, the title document cannot be released in favour of the petitioners. It has been also submitted by learned Counsel for the respondent- Canara Bank that the petitioners are deliberately misleading and misinterpreting the orders dated 27.07.2023 and 19.09.2023 passed by the learned DRT and according to him, both the orders nowhere provides that deposit of Rs.70 Lacs would result in full and final settlement of the account or would automatically lead to release of the title document as was being

contended by learned counsel for the petitioners in the present writ petition.

15. However, the aforesaid submission made by learned Counsel for the respondent- Canara Bank have been strongly refuted by the learned Counsel for the petitioners who has strenuously submitted that the respondent- Canara Bank initially sanctioned a credit facility of Rs. 70 Lacs, but later on the said account was bifurcated into two accounts, one being OCC Account No. 4207261000033 with amount of Rs.20 Lacs and another being WCTL Account No. 4207746000001 with an amount of Rs. 50 Lacs. Subsequently, according to learned Counsel for the petitioners, the respondent- Canara Bank also sanctioned two FITL Accounts, one bearing Account No.4207710000039 with amount of Rs. 4 Lacs and another one bearing Account No.4207710000039 with amount of Rs.1,53,581/-. He further submitted that at the time of settlement, the respondent- Canara Bank has settled all the accounts as is apparent from the fact that the petitioners had deposited the entire amount of Rs.71,50,000/- in Account No. 4207261000033 in which the sanctioned amount was only Rs. 20 Lacs. He has vehemently submitted that the respondent- Canara Bank is misleading this Court relating to sanction of four loan accounts. In fact, the settlement with the respondent- Canara Bank had taken place for all the four accounts. In any case, learned Counsel for the petitioners has submitted that if one account of the borrower becomes NPA, then the law provides that all the accounts are to be declared as NPA and whenever the Bank initiates any recovery proceeding against one account, the Bank is bound to initiate proceedings against other NPA accounts also. It has been submitted that the said fact can be also verified from the demand notice issued by the respondent- Canara Bank U/s 13(2) of the SARFAESI Act, 2002, which was a single demand notice for the entire outstanding amount of all the four loan accounts. He further submits that all the accounts were settled by virtue of the order dated 27.07.2023 of the learned DRT and as a matter of record, the respondent- Canara Bank had filed two writ petitions *i.e. Writ Under Article 227 No.5154 of 2023* and *Writ-C No.9217 of 2023;* which were

dismissed vide orders dated 11.10.2023 and 19.10.2023 respectively, and no appeal has been filed by the respondent- Canara Bank against the settlement order dated 27.07.2023 and in a way, the said order has already attained finality.

16. Having heard the learned Counsel for the parties and perused the material available on records. At the very outset, the learned Counsel for the Respondent-Bank, while making his oral submission at the bar has stated that after the rejection of their two successive writ petitions interdicting the order(s) of the DRT, the Bank has preferred a statutory Appeal before the DRAT and the same is pending adjudication before the said learned Appellate Tribunal. Although, this Court proposed to dispose of the present writ petition and offered to relegate the parties to the Appellate Tribunal with liberty to the parties to raise all their issues before the Appellate Tribunal including the release of title documents of the mortgaged property, however Mr. Apoorv Dev, learned Counsel appearing for the petitioners has submitted that the relief which has been sought in the present writ petition cannot be decided by the DRT/DRAT and as such in that eventuality has prayed that the present writ petition may be decided on merits by this Court.

17. Keeping in view the aforesaid prayer, we propose to tread on the aforesaid limited aspect and while doing so, are immediately confronted with the decision of the Hon'ble Supreme Court in a celebrated judgment rendered in the case of ***United Bank of India Vs. Satyawati Tondon and others,*** reported in ***2010 (8) SCC 110;*** wherein the Apex Court after considering the aims and objects of the SARFAESI Act, 2002 has categorically observed that the High Court must insist that before availing remedy under Article 226 of the Constitution of India, a person must exhaust the remedies available under the relevant statute.The observations made in paragraph nos. 43, 44 and 45 read as under:-

> ***"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."*

18. The aforesaid view of the Hon'ble Supreme Court has been consistently followed in various judgments, including in the landmark judgements in the cases of ***South Indian Bank Ltd. v. Naveen Mathew Philip, (2023) 17 SCC 311***; and ***Celir LLP v. Bafna Motors (Mumbai) (P) Ltd., (2024) 2 SCC 1 : 2023 SCC OnLine SC 1209.*** In the ***Bafna Motors*** (supra), their Lordships observed thus:

"101. More than a decade back, this Court had expressed serious concern despite its repeated pronouncements in regard to the High Courts ignoring the availability of statutory remedies under the Rdbfi Act and the Sarfaesi Act and exercise of jurisdiction under Article 226 of the Constitution. Even after, the decision of this Court in Satyawati Tondon [United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110 : (2010) 3 SCC (Civ) 260] , it appears that the High Courts have continued to exercise its writ jurisdiction under

Article 226 ignoring the statutory remedies under the Rdbfi Act and the Sarfaesi Act."

19. However, the learned Counsel for the petitioners has sought to argue a finer distinction with the aforesaid judgment of the Apex Court and has tried to highlight that the relief which has been sought by him cannot be granted by the DRT/DRAT as primarily the relief sought is not under the SARFAESI Act, 2002, but under a general law that after settlement of loan, petitioners are entitled for release of title document and in case of delay the respondent- Canara Bank is liable for damages. In order to address the said contention of the learned Counsel for the petitioners, we need to have a first-hand knowledge as to what exactly relief is being sought by the petitioners.

20. Succinctly, the case of the petitioners is that although they have settled the loan and paid the entire amount as per the order dated 27.07.2023 of the DRT, however, the Bank has not released the tittle-document, which was to be released to him within 15 days of squaring up the loan amount, additionally the compensation has been sought for the said delay in view of the RBI Guidelines. On the other hand, the Respondent-Bank in order to refute the claim of release of title document, has made three fold arguments, the first being the dispute of payment of entire outstanding amount, which according to them existed for four loan account and not for one loan account, secondly the DRT does not have power to extend the time-limit of payment of settlement amount unilaterally, and thirdly, there is no specific direction of the DRT to handover the title documents of the property to the petitioners.

21. *Prima-facie,* we do not wish to subscribe to the contention of the Respondent-Canara Bank that the proposed settlement of the petitioners was not for four loan accounts but for one loan account, for the simple reason that the amount which has been paid by the petitioners and has been duly accepted by the Respondent-Bank, appears to be an approximate amount summing up all these four loan account and cannot be countenanced to have been paid for settling one loan account only. No doubt the Respondent-Bank may have an issue relating to the order of

DRT, unilaterally extending the time for payment of the total settlement amount and amount of interest payable, as we see that the settlement proposed by the petitioners had been allowed by the DRT, after the auction purchaser had paid 25% of the auction amount. However, this Court does not wish to enter into the realms of the legality or otherwise of the order of the DRT, as we have been informed that these issues are pending in an appeal before the DRAT. In any case, the fact of the matter remains that as on date, there exist at least two controversies between the Bank and the petitioners relating to *(i)* quantum of interest, and *(ii)* legality of extension of period of deposit of settlement amount by the DRT. Apparently, these issues have factual implications and are to be decided before a proper forum and then only the title document has to be released, which, according to this Court, is an act of subsequent event after a Bank has issued a NOC or at least have filed some pleadings admitting the settlement. We do not find any such NOC or pleadings, rather a contrary stand has been taken by the respondent- Canara Bank. We are clear in our mind that this Court, while exercising its jurisdiction under Article 226 of the Constitution of India, does not wish to enter into any disputed questions of fact.

22. Having said so, we clarify that this Court is not even commenting on the aforesaid issues and does not wish to also sound that these issues actually exist between the parties, as it is always available to the petitioners to contend that the time was rightly extended by the DRT and the quantum of interest had not only been already decided between the parties but had also been paid by them, so as to make them eligible for return of title documents within the time limit, as stipulated by the RBI Guidelines. Thus, we are of the view that in both the cases, these issues essentially being factual in nature and the DRT/DRAT essentially being the proper forum, cannot be decided by this Court, especially when an Appeal is stated to be pending before the Appellate Tribunal, wherein the very order of the DRT, which is the foundation for seeking relief in the present writ petition has been sought to be challenged by the Bank.

23. It may be pertinent to mention that the present case is not where NOC has been issued by the respondent- Canara Bank after payment of settlement amount and still the title document has not been handed over to the borrower.

24. We need not hold that the law is clear that once the loan has been settled and NOC granted, the Bank is under a statutory duty to return the title document without any reservation, however, since we see an impending dispute between the parties, we do not wish to lay our hand on the said issue. We are conscious of the fact that the powers conferred upon this Court under Article 226 of the Constitution of India 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 in several decisions. 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 to entertain a petition filed under Article 226 of the Constitution of India ignoring the fact that the petitioners can avail effective remedy particularly contained in the legislation.

25. Further, we may note that by virtue of Section 17(7) of the SARFAESI Act, 2002 all the provisions of Recovery of Debts and Bankruptcy Act, 1993 (formerly RDBFI Act) has been made applicable to Debts Recovery Tribunal, for disposal of any Application. This Court finds that Section 19 of the R.D.B. Act, 1993 Act relating to application to the Tribunal enumerates various powers vested for administering the procedure adopted by the Tribunal in disposing of the matter filed before it. In this regard, we also note the residuary provisions mentioned in sub-Section 25 of Section 19, *inter-alia* states as :-

> ***"(25)** The Tribunal may made such orders and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice."*

26. We do not find any cogent reasons as to why the petitioners did not approach the DRT for release of title documents and rushed to this Court, in case the loan had been fully settled and that too on the direction

of the DRT. According to us, the DRT is well equipped and sufficiently empowered to pass directions to the Bank for release of the title documents, in that regard.

27. Apparently, the petitioners have approached in writ jurisdiction before this Court, although it has an efficacious alternative remedy available before the DRT. The law in this regard is well settled in catena of judgments, specially in case of ***Satyawati Tondon*** (supra) and ***Bafna Motors*** (supra), exposing a proposition that statutory remedy has to be exhausted first instead of filing writ petition. Therefore, we are not inclined to grant any relief in the present writ petition.

28. In view of above, the writ petition is ***dismissed*** with liberty granted to the petitioners to file an appropriate application(s) before the DRT. In case, if the petitioners file any such application(s), the Tribunal shall decide the same on its own merits, in accordance with law, uninfluenced by any of the observations made by this Court in the present writ petition.

29. There shall be no order as to cost.

(Abdhesh Kumar Chaudhary, J.) (Shekhar B. Saraf, J.)

June 04, 2026
MVS/-