IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. SOUMEN SEN

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 1ST DAY OF SEPTEMBER 2026 / 10TH BHADRA, 1948

WA NO. 1560 OF 2026

AGAINST THE JUDGMENT DATED 09.06.2026 IN WP(C)

NO.40284 OF 2025 OF HIGH COURT OF KERALA

APPELLANT/S:

1 M/S SOUBHAGYE ROAD BUILDERS,
REPRESENTED BY ITS PROPRIETOR, MOHANAN V.,
PATHRAMALIL HOUSE, MARACKAR ROAD, PERUMBAVOOR,
ERNAKULAM DISTRICT, PIN - 683542

2 MOHANAN V.,
AGED 67 YEARS
PATHRAMALIL HOUSE, MARACKAR ROAD, PERUMBAVOOR,
ERNAKULAM DISTRICT, PIN - 683542

3 MRS. SUSHAMA MOHANAN,
AGED 61 YEARS
W/O. SHRI MOHANAN, PATHRAMALIL HOUSE, MARACKAR
ROAD, PERUMBAVOOR, ERNAKULAM DISTRICT, PIN -
683542

BY ADVS.
SMT. MARIA NEDUMPARA
SHRI.SHAMEEM FAYIZ V.P.
SHRI.ROY PALLIKOODAM
SHRI. MATHEWS J. NEDUMPARA

RESPONDENT/S:

1 RESERVE BANK OF INDIA,
REPRESENTED BY ITS GOVERNOR CENTRAL OFFICE

BUILDING, SHAHED BHAGAT SINGH ROAD, MUMBAI, PIN - 400001

2 BOARD OF DIRECTORS OF CANARA BANK LTD., REPRESENTED BY ITS CEO & MANAGING DIRECTOR 112, J.C. ROAD, BENGALURU, PIN - 560002

3 CANARA BANK LIMITED, REPRESENTED BY ITS CEO & MANAGING DIRECTOR 112, J.C. ROAD, BENGALURU, PIN - 560002

4 AUTHORISED OFFICER, CANARA BANK LTD., REGIONAL OFFICE-II, METRO BUILDING, III FLOOR, M.G. ROAD, ERNAKULAM, PIN - 682035

5 MINISTRY OF MICRO SMALL AND MEDIUM ENTERPRISES, REPRESENTED BY ITS SECRETARY. UDYOG BHAWAN, RAFI MARG, NEW DELHI, PIN - 110001

6 UNION OF INDIA, REPRESENTED BY ITS SECRETARY, DEPARTMENT OF FINANCIAL SERVICES, MINISTRY OF FINANCE, 3RD FLOOR, JEEVAN DEEP BUILDING, SANSAD MARG, NEW DELHI, PIN - 110001

7 STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

8 GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, KAKKANADU, ERNAKULAM, PIN - 682030

9 CHAIRMAN, MICRO AND SMALL ENTERPRISE FACILITATION COUNCIL (MSEFC) DIRECTORATE OF INDUSTRIES COMMERCE, VIKAS BHAVAN P.O., THIRUVANANTHAPURAM, KERALA, PIN - 695033

10 CHAIRMAN, STATE LEVEL INTER-INSTITUTIONAL COMMITTEE REGIONAL OFFICE, RESERVE BANK OF INDIA BAKERY JUNCTION, P.B. NO. 6507, THIRUVANANTHAPURAM, PIN - 695033

11 RAJAN JOSEPH,
S/O. JOSEPH, THOZHUTHUM PARAMBIL, THRISSUR ROAD, IRINGALAKKUDA P.O., THRISSUR, PIN - 680125

12 ANIL DHIRAJLAL AMBANI,
39, SEA WIND, CUFFE PARADE, COLABA, MUMBAI, PIN - 400005

13 MUKESH AMBANI,
CHAIRMAN, RELIANCE INDUSTRIES, 3RD FLOOR, MAKER CHAMBERS IV, 222, NARIMAN POINT, MUMBAI, PIN - 400021

14 THE CHAIRMAN,
STATE BANK OF INDIA CORPORATE CENTER, 16TH FLOOR, MADAM CAMA ROAD, NARIMAN POINT, MUMBAI, PIN - 400021

BY ADVS.
SRI.MILLU DANDAPANI
SMT.V.GEETHA POTTI, CGC
SRI. ANEESH K.M.
SRI. K. SANTHOSH KUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01.09.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T **C.R.**

Dated this the 1st day of September, 2026

Soumen Sen, C. J.

Heard Mr. Mathew Nedumpara, learned counsel for the appellants, Mr. Millu Dandapani, learned counsel for respondent No.1 and Mr. Aneesh K.M. representing Mr. K. Santhosh Kumar (Kaliyanam), learned counsel for respondent Nos. 2 to 4.

2. The appeal is arising out of the judgment dated 9th June 2026 in a writ petition filed by the appellants seeking protection of Ext. P1 MSME Notification No. S.O.1432(E) dated 29th May, 2015 and Ext. P2 Circular issued by the Reserve Bank of India dated 17th March, 2016, apart from challenging the entire proceedings initiated by the Bank under Sections 13(2), 13(4) and 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as, “the SARFAESI Act”) being violative of the aforesaid Notification.

3. The learned Single Judge dismissed the writ petition with a finding that the writ appellants have not claimed the

benefit of the terms of the framework after the issuance of the demand notice under Section 13(2) of the SARFAESI Act. The said benefit has been claimed by the petitioners for the first time in the writ petition when proceeding was initiated under Section 14 of the SARFAESI Act. The learned Single Judge has also taken into consideration that in the earlier round of litigation before the learned Single Judge, the 1st writ petitioner has not raised any claim based on Exts. P1 and P2. The learned Single Judge relying upon the decision of the Hon'ble Supreme Court in ***Pro Knits (M/s.) v. Board of Directors of Canara Bank***[1] and ***Shri Shri Swami Samarth Construction & Finance Solution v. Board of Directors of NKGSB Co-op. Bank Ltd.***[2] held that the petitioners cannot at this belated stage turn around and claim the benefit of Exts. P1 and P2 and thwart the proceeding taken under the SARFAESI Act.

4. The petitioners are aggrieved by this impugned order.

5. Mr. Mathews J. Nedumpara, learned counsel appearing on behalf of the writ appellants, has submitted

1 (2024) 10 SCC 292; 2024 KHC OnLine 6408
2 2025 SCC OnLine SC 1566; 2025 KHC OnLine 6647

that the learned Single Judge has completely overlooked the fact that appellant No.1 is admittedly an MSME and initiation of recovery proceedings under the Notification S.O.1432(E) dated 29th May, 2015 (in short, “the said Notification”) is without prior recourse to the measures laid down in the said notification. In fact, the said Notification mandates Banks and Financial Institutions to identify incipient stress on MSME loan accounts, to create a SMA-0 (Special Mention Account-zero) and thereafter to constitute a stress MSME Committee in terms of the said Notification and to make an application to such Committee for the resolution of the incipient stress. The specially constituted Committee as envisaged under the said Notification alone is empowered to permit recovery only after it arrives at a conclusion that resolution of the incipient stress is not feasible. It is submitted that the judgment in ***Pro Knits (M/s.)*** (supra) supports the contention of the writ appellants as in paragraphs 17 and 18 of the said decision, it has been clearly stated that the instructions and directions issued by the Central Government under Section 9 of the Micro, Small and

Medium Enterprises Development Act, 2006 (for short, the "MSMED Act") and by the RBI under Sections 21 and 35A have statutory force and are binding to all the Banking Companies. The judgment in ***Shri Shri Swami Samarth Construction & Finance Solution*** (supra) has also been misconstrued and misappreciated by the learned Single Judge as the said judgment has categorically emphasised that if a borrower asserts that it is an MSME and claims the benefit of the framework, the secured creditor would be mandatorily required to look into such claim keeping further action under the SARFAESI Act in abeyance. Insofar as the finding of the learned Single Judge that in the earlier proceedings no relief was claimed as regards protection of Exts. P1 and P2, it is submitted that the writ petition was filed with a fresh cause of action resulting from the auction notice being issued by the secured creditor.

6. Mr. Mathews J. Nedumpara has submitted that there cannot be a *res judicata* on a pure question of law as held in ***Isabella Johnson (Smt.) v. M. A. Susai (Dead) By LRS***[3]. Attention of the Court is drawn to paragraph 5 of the

3 (1991) 1 SCC 494

judgment where it has been held that when the question is one purely of law and it relates to the jurisdiction of the court or a decision of the court sanctioning something which is illegal by resort to the rule of *res judicata* to prevent the party affected by the decision from challenging the validity of the order would not be sustainable.

7. *Per contra*, Mr. Aneesh K. M., learned counsel appearing on behalf of the secured creditors, has submitted that initially, the writ appellants availed an overdraft limit of ₹2 Crores with specific sanctioned terms and conditions. As per sanction dated 14th August, 2023, the OD limit is tenable for one year from the date of sanction, i.e. 14th August, 2024, it is alleged that the borrowers had not conducted the account as per the sanctioned terms and has failed to opt for renewal of the limits on or before the date of expiry of 14th August, 2024 even after much follow up from the Bank. The learned counsel has also referred to a communication dated 9th August, 2024 by which a final reminder was issued requesting the 1st writ appellant to furnish the documents mentioned in the said letter for renewal of the overdraft

facility. Since the limits could not be renewed for want of request for renewal and connected documents from the writ appellants, the Bank was constrained to classify the account as NPA on 8th February, 2025, after a lapse of nearly six months from such renewal date. Upon classification of the account as NPA, recovery proceedings were initiated under the provisions of the SARFAESI Act by issuing a demand notice dated 10th February, 2025. The said recovery proceedings were challenged in W.P.(C) No.31231 of 2025. The writ petition was dismissed by a judgment dated 22nd September, 2025 relegating the writ appellants to challenge the measures taken by the secured creditors as provided under the SARFAESI Act. In view of the aforesaid, it is submitted that the 2nd writ petition on the same cause of action or challenging the measures taken by the secured creditors in the meantime would not be maintainable.

8. The issues raised in this appeal have been dealt with by this Court in W.A.No.1192 of 2026 [***M/s. Irine Agro Spices and Another v. The Board of Directors of Axis Bank Ltd. and Others***[4]] decided on 10th July, 2026 and W.A.No.649 of 2026

4 2026 SCC OnLine Ker 6753

[***M/s. Sree Matha Cosmetic Industries v. The Board of Directors of the UCO Bank and Others***] decided on 10th August, 2026. In both the appeals, we have elaborately discussed the said Notification and the MSMED Act. We have also considered the circumstances where the provisions under the SARFAESI Act cannot be invoked against an MSME.

9. The writ appellant No.1 admittedly filed the writ petition being W. P. (C) No. 31231 of 2025 praying for the following reliefs:-

> "i. To issue a writ of Certiorari or any other appropriate writ, order or direction to quash Exhibit-P9 as unjust and unsustainable.
>
> ii. Issue a writ of mandamus or any other appropriate writ, order or direction compelling the respondents to provide breathing time to pay of arrears of instalments and to regularise the bank account.
>
> iii. Issue a writ of mandamus or any other appropriate writ, order or direction compiling the bank to release the gold ornaments to the petitioner in Loan A/C Numbers:180351696420, 180351724568 and 180351727408.

iv. Grant such other reliefs to the petitioner, as this Honourable Court may deem appropriate as the nature of the case."

10. Ext.P9 was the first reminder letter for NPA AGRI/Gold Loan Account 190351696420 dated 11th February, 2025. The said reminder letter was preceded by notice under Section 13(2) of the SARFAESI Act dated 10th February, 2025 and notice issued under Section 13(4) of the SARFAESI Act dated 13th May, 2025. These two letters were annexed to the said writ petition as Exts.P1 and P6 respectively. It was thus implicit that a challenge to Ext.P9 must precede a challenge to the notice under Section 13(2) and measures taken under Section 13(4). Ext.P9 is only a consequential action taken by the Bank in terms of Ext.P1 notice and culminated in a measure under Ext.P6 notice. Significantly, the prayers would show that the writ appellant prayed for instalments and regularisation of the Bank account. During the pendency of the said writ petition, an interim order was passed on 21st August, 2025, which reads as follows:-

"Notice before admission. Sri.Gopikrishnan Nambiar takes notice for the respondents and seeks time to get instructions. For deciding the maintainability of the writ petition and to consider the prayers seeking instalment facility and to defer further coercive steps against the petitioner, as an interim measure, there will be a direction to the petitioner to remit an amount of Rs.30 lakhs (Rupees thirty lakhs only) on or before 19.09.2025. It is made clear that if the above payment is not made, the respondents will be at liberty to proceed further, in accordance with law. Post on 22.09.2025."

11. Admittedly, the said order was not complied with by the writ appellant. On such consideration, the writ petition was disposed of with the following observation:-

"4. This Court exercises very limited jurisdiction in matters arising under the SARFAESI Act, as repeatedly held by the Honourable Supreme Court in several judgments, including in **South Indian Bank Ltd. and Ors. v. Naveen Mathew Philip and Ors.** [2023 17 SCC 311] that the powers conferred under Article 226 of the Constitution of India are rather wide but are required to be exercised only in extraordinary circumstances in matters pertaining to proceedings and adjudicatory scheme qua a statute, more so in commercial matters involving a lender and a borrower, when the legislature has provided for a specific mechanism for appropriate redressal. When this Court is approached with a prayer to permit the borrowers to clear the liability in instalments, the borrowers must prove bona fides. The non-compliance of the interim order indicates that the petitioner in this case has not shown any bona fides to enable this Court to permit him to clear the liability in instalments.

5. Therefore, I find no reason to grant the reliefs sought for in this writ petition, and the same will stand dismissed without prejudice to the right of the petitioner to challenge the measures taken by the secured creditor as provided under the SARFAESI Act, if so advised."

12. Instead of approaching the Tribunal for redressal of their grievance, another writ petition was filed seeking protection under the said Notification. It appears that the Bank, before initiating the proceedings, gave six months' time for renewal of the said account. The letter dated 9th August, 2024 has clearly stated the documents required for the purpose of renewal of the overdraft facility. Although it has been strenuously argued that the second writ petitioner visited the Aluva branch of the Canara Bank and handed over a bunch of documents, including the financial statements and MSME certificates, there is nothing on record to show that the said letter was ever replied nor in any subsequent communication there has been any reference of the letter dated 9th August, 2024 and submission of the required

documents. The writ appellants did not make any application for rehabilitation.

13. In the light of the aforesaid facts, we need to decide whether we should exercise our discretion under Article 226 of the Constitution of India to interfere with the order passed by the learned Single Judge, in dismissing the writ petition on the ground of availability of an efficacious alternative remedy.

14. We have carefully read the Framework and the provisions of the SARFAESI Act. The Framework dated 29th May, 2015 precedes the SARFAESI Act. However, the interplay of the two provisions has been considered and explained in ***Pro Knits (M/s.)*** (supra) and ***Shri Shri Swami Samarth Construction and Finance Solution*** (supra). We have also considered the said decisions in a similar challenge in ***M/s. Irine Agro Spices*** (supra).

15. One common thread in both the decisions was that there was an obligation on the enterprise to voluntarily initiate proceedings under the Framework if the enterprise

apprehends failure of its business or its inability to pay its debts and before the accumulated losses of the enterprise equals to half or more of its entire net worth. While the Framework casts an obligation for the Bank to identify the incipient stress in the loan account by creating sub categories, the obligation on the part of the enterprise to make such application remains. The petitioner did not approach the Bank with any rehabilitation package.

16. In ***M/s. Irine Agro Spices*** (supra), we have considered the circumstances under which proceedings under the SARFAESI Act can be initiated against an M.S.M.E. in paragraph 28, which reads as follows:

> "28. The duties and obligations of an MSME to voluntarily initiate the proceedings under the Framework of the MSMED Act have been discussed in Pro Knits (supra) elaborately, as well as in the subsequent decision in Shri Shri Swami Samarth Construction and Finance Solution (supra) It has also been clearly stated that even in a case where the secured creditor may, in absence of any conscious knowledge that the defaulting borrower is an MSME, issue a notice under Section 13(2) of the SARFAESI Act, still the borrower, in its response under Section 13 (3A) of the SARFAESI Act, can assert that it is

an MSME and claim the benefit of the Framework citing reasons supported by an affidavit, and in such a situation, the lending bank/secured creditor would then be mandatorily bound to look into such claim, keeping further action under the SARFAESI Act in abeyance; and, should the claim be found to be worthy of acceptance within the framework of the Framework, to act in terms thereof for securing revival and rehabilitation of the defaulting borrower. In the instant case, we do not find from the record that the appellants have ever approached the financial creditors to avail the benefit of the terms of the Framework after the demand notice under Section 13(2) of the SARFAESI Act was issued. In fact, under Clause 4 of the Framework for Revival and Rehabilitation of Micro Small and Medium Enterprises, any eligible stressed MSME is entitled to file an application to the Committee, in the manner specified by the Bank, for a decision on a corrective plan. It was only at the stage of implementation of an order passed by the learned Magistrate under Section 14 of the SARFAESI Act that the writ petition was filed questioning the jurisdiction of the secured creditors to proceed under the SARFAESI Act. Both the aforesaid decisions in the facts and circumstances of the case cannot be either accepted as judgment sub silentio or per incuriam.”

17. The argument that the present writ petition was filed after the bank has proceeded with the auction of the

secured assets cannot be accepted. The petitioner has not been able to demonstrate that due procedure for the auction sale has not been followed. The said notice is a sequel to the initiation of the proceedings under Sections 13(2) and 13(4) of the SARFAESI Act. The scheme of the SARFAESI Act clearly laid down the stages and the procedures to be followed before a sale is concluded. If the writ appellants were to contend that disregarding the MSME notification, measures have been initiated by the secured creditor, then in the first writ petition itself, it should have been challenged. The writ appellants were not under disability at the relevant point of time to challenge the classification of the account as NPA on the grounds on which now the action taken by the secured creditor for sale of the secured assets have been assailed. The writ appellants cannot be selective about their claims and reliefs. When the cause of action for challenging the actions/measures now proposed were earlier available, merely because now an auction notice has been issued, the challenge to the very initiation cannot be entertained. The writ appellants have failed to demonstrate that the procedure adopted for the auction purchase is contrary to the procedure prescribed under the SARFAESI Act. They cannot, therefore, be heard to contend that they are entitled to the benefit of the MSME Notification, which appears to have been abandoned at the first stage of the litigation. It is trite law that the litigant must raise all claims and issues that arise in a particular dispute. It was open to the writ appellants to agitate in the first writ petition that the SARFAESI proceedings has been initiated disregarding the said notification and the RBI guidelines. The party cannot be permitted to open the same subject of litigation when the facts ought to have been brought forward in the first round of litigation.

18. The consequence of failure of a litigant to raise all claims and issues that arise in a particular dispute has been recently considered by the Hon'ble Supreme Court in ***CELIR LLP v. Mr. Sumati Prasad Bafna & Ors.***[5]. The Henderson Principle which dates back to 1843 has laid down the law in clear terms as it states that where a given matter becomes the subject of litigation and the adjudication of a

5 2024 INSC 978

court of competent jurisdiction, the parties so litigating are required to bring forward their whole case. Once the litigation has been adjudicated by a court of competent jurisdiction, the same parties will not be permitted to re-open the *lis* in respect of issues which might have been brought forward as part of the subject in contest but were not, irrespective of whether the same was due to any form of negligence, inadvertence, accident or omission. It was further held, that principle of *res judicata* applies not only to points upon which the Court was called upon by the parties to adjudicate and pronounce a judgement but to every possible or probable point or issue that properly belonged to the subject of litigation and the parties ought to have brought forward at the time. The plea of *res judicata* applies, except in special cases, not only to points upon which the Court was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have brought forward at the time.

19. In ***Yat Tung Investment Co. Ltd. v. Dao Heng***

Bank Ltd.,[6] it has been held that it would be an abuse of procedure to permit further action based on another ground that could have been advanced earlier.

20. Once a court of competent jurisdiction has adjudicated the matter in a particular *lis*, it is not open to the parties to bring forward new grounds that could have been raised on the earlier occasion. Similarly, an action which is a sequence to the action that had remained unchallenged cannot by applying circuitous method be re-opened and raised in a subsequent litigation in order to render the decision that has already been arrived at in the earlier ground of litigation, otiose. Without there being a challenge to the proposed action of the bank, the Sale Notice would not furnish another ground to re-open the issue where it has been conclusively decided that the writ appellants have an efficacious alternative remedy under Section 17 of the SARFAESI Act. The Henderson Principle is founded on the principle that there should be finality in litigation. The same principle is also reflected in Order II Rule 2 of the Code of Civil Procedure, which requires that every suit shall include

6 [1975] A.C. 581

the whole of the claim which the plaintiff is entitled to make in respect of the cause of action. This principle would equally apply to writ petitions filed under Article 226 of the Constitution of India. In ***CELIR LLP*** (supra), the Apex Court has specifically held that the parties must ensure that all the grounds of challenge or defence are taken in the said proceedings, and any omission to do so is at their own peril. We feel that the argument made on seeking protection of the said notification and RBI guidelines could not be raised at this stage. The present cause of action cannot be viewed in isolation as it is the continuation of the earlier cause of action originated with issuance of notice under Section 13(2) of the SARFAESI Act dated 10th February, 2024. No independent ground exists for challenging the auction sale other than the ground of protection under the MSME Act and the notification dated 29th May, 2015. Although available, this relief was not claimed in the earlier round of litigation.

21. In ***CELIR LLP*** (supra), at paragraph 141, reference has been made to another decision of the Hon'ble Supreme Court where the Henderson Principle was

approvingly referred to and applied. The said paragraphs reads as under:

> "141. The Henderson Principle was approvingly referred to and applied by this Court in State of U.P. v. Nawab Hussain reported in (1997) 2 SCC 806 as the underlying principle for res-judicata and constructive res-judicata for assuring finality to litigation. The relevant observations read as under: -
>
> > "3. The principle of estoppel per rem judicatam is a rule of evidence. As has been stated in Marginson v. Blackburn Borough Council [(1939) 2 KB 426 at p. 437], it may be said to be "the broader rule of evidence which prohibits the reassertion of a cause of action". This doctrine is based on two theories: (i) the finality and conclusiveness of judicial decisions for the final termination of disputes in the general interest of the community as a matter of public policy, and (ii) the interest of the individual that he should be protected from multiplication of litigation. It therefore serves not only a public but also a private purpose by obstructing the reopening of matters which have once been adjudicated upon. It is thus not permissible to obtain a second judgment for the same civil relief on the same cause of action, for otherwise the spirit of contentiousness may give rise to conflicting

judgments of equal authority, lead to multiplicity of actions and bring the administration of justice into disrepute. It is the cause of action which gives rise to an action, and that is why it is necessary for the courts to recognise that a cause of action which results in a judgment must lose its identity and vitality and merge in the judgment when pronounced. It cannot therefore survive the judgment, or give rise to another cause of action on the same facts. This is what is known as the general principle of res judicata.

4. But it may be that the same set of facts may give rise to two or more causes of action. If in such a case a person is allowed to choose and sue upon one cause of action at one time and to reserve the other for subsequent litigation, that would aggravate the burden of litigation. Courts have therefore treated such a course of action as an abuse of its process and Somervell, L.J., has answered it as follows in Greenhalgh v. Mallard [(1947) All ER 255 at p. 257] : "I think that on the authorities to which I will refer it would be accurate to say that res judicata for this purpose is not confined to the issues which the court is actually asked to decide, but that it covers issues or facts which are so clearly part of the subject-matter of the litigation and so clearly could have been raised that it would be an

abuse of the process of the court to allow a new proceeding to be started in respect of them.

This is therefore another and an equally necessary and efficacious aspect of the same principle, for it helps in raising the bar of res judicata by suitably construing the general principle of subduing a cantankerous litigant. That is why this other rule has some times been referred to as constructive res judicata which, in reality, is an aspect or amplification of the general principle."

(emphasis supplied)

22. The law is summarised in paragraph 144 of the said decision, which reads as under:

"144. From the above exposition of law, it is clear that the 'Henderson Principle' is a core component of the broader doctrine of abuse of process, aimed at enthusing in the parties a sense of sanctity towards judicial adjudications and determinations. It ensures that litigants are not subjected to repetitive and vexatious legal challenges. At its core, the principle stipulates that all claims and issues that could and should have been raised in an earlier proceeding are barred from being raised in subsequent litigation, except in exceptional circumstances. This rule not only supports the finality of judgments but also underscores the ideals of judicial propriety and fairness.”

(emphasis supplied)

23. The observation at paragraph 4 in ***State of U.P. v. Nawab Hussain***[7] and as explained in ***CELIR LLP*** (supra) are apposite in the facts and circumstances of the case and sufficient to reject the submission of the writ appellants on the said issue.

24. On such consideration, we do not find any reason to interfere with the order passed by the learned Single Judge. The observations made are only limited to the issues involved in this appeal and shall not influence the DRT in deciding the matter on merits and in accordance with law in the event the action of the secured creditor is challenged before the DRT. The learned Single Judge has already given liberty to the appellants to approach the DRT. In the event any application is filed before the DRT within three weeks from date, the Tribunal shall accept the application without insisting for an application for condonation of delay.

7 (1997) 2 SCC 806

25. The writ appeal accordingly fails and is dismissed.

Sd/-
SOUMEN SEN,
CHIEF JUSTICE

Sd/-
SYAM KUMAR V. M.,
JUDGE

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