



CNR: KAHC010205352026

NC: 2026:KHC:54618-DB
WA No. 935 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT APPEAL NO.935 OF 2026 (GM-DRT)

BETWEEN:

1. M/S. SHRI LAKSHMI VENKATARAMANA
YAJAMANA INDUSTRIES,
(A REGISTERED PARTNERSHIP FIRM)
O/AT NO.1-83/4A, SY.NO.43-2-AP 1,
CHENNAITHODY, MAVINAKATTE,
VAMADAPADAVU, BANTWAL,
DAKSHINA KANNADA DISTRICT,
KARNATAKA - 574 324.
2. M/S. VISHNUPRIYA CASHEW INDUSTRIES,
(A REGISTERED PARTNERSHIP FIRM)
O/AT SY.NO.13/8A4, KADABETTU CROSS,
KADABETTU VILLAGE, BANTWAL CROSS,
DAKSHINA KANNADA,
KARNATAKA - 574 211.
3. M/S. SHRI LAKSHMI VENAKTARAMANA
CASHEW RURAL INDUSTRIES,
(A PROPRIETORSHIP CONCERN)
O/AT 2-103, FIRST FLOOR, CHENNAITHODY,
MAVINAKATTE P.O., BANTWAL,
DAKSHINA KANNADA DISTRICT,
KARNATAKA - 574 324.
4. M/S. SHASHANK CASHEW INDUSTRIES,
(A REGISTERED PARTNERSHIP FIRM)
O/AT SY.NO.79/5, PILATHABETTU,
NAINADU P.O., BANTWAL
DAKSHINA KANNADA DISTRICT,
KARNATAKA - 574 211.

APPELLANTS NO.1 TO 4 ARE
REPRESENTED BY ITS

Digitally signed by
MAHALAKSHMI B M
Location: High Court
of Karnataka



CNR: KAHC010205352026

NC: 2026:KHC:54618-DB
WA No. 935 of 2026

AUTHORISED SIGNATORY
T. VARADARAJA PAI
S/O RAGHUNATH PAI T.
R/AT 1-83/4, CHENNAITHODY
MAVINAKATTE, VAMADAPADAVU,
BANTWAL, DAKSHINA KANNADA DISTRICT,
KARNATAKA - 574 324.

...APPELLANTS

(BY SRI DHYAN CHINNAPPA, SENIOR ADVOCATE A/W
SRI RUDRABHUSHAN C.B., ADVOCATE)

AND:

1. UNION OF INDIA,
THROUGH ITS SECRETARY,
MINISTRY OF FINANCE,
3RD FLOOR, JEEVAN DEEP BUILDING,
SANSAD MARG, NEW DELHI – 110 001.
2. THE MANAGING DIRECTOR
AND CHIEF EXECUTIVE OFFICER,
CANARA BANK, HEAD OFFICE,
112, J.C. ROAD BANGALORE,
KARNATAKA – 560 002.
3. THE GENERAL MANAGER,
CANARA BANK CIRCLE OFFICE,
BALMATTA ROAD, MANGALURU,
DAKSHINA KANNADA,
KARNATAKA – 575 001.
4. THE AUTHORIZED OFFICER,
CANARA BANK,
ARM BRANCH CIRCLE OFFICE
BALMATTA ROAD, MANGALURU,
KARNATAKA - 575 001.
5. THE BOARD OF DIRECTORS,
CANARA BANK,
CANARA BANK, HEAD OFFICE,
112, J C ROAD, BANGALORE,
KARNATAKA – 560 002.
6. THE AUTHORIZED OFFICER,
DEPARTMENT OF FINANCIAL SERVICES ,
JOINT SECRETARY,
DEPARTMENT OF FINANCIAL SERVICES,
MINISTRY OF FINANCE,
3RD FLOOR, JEEVAN DEEP BUILDING,
SANSAD MARG, NEW DELHI – 110 001.



CNR: KAHC010205352026

NC: 2026:KHC:54618-DB
WA No. 935 of 2026

7. THE SECRETARY,
MINISTRY OF MICRO,
SMALL AND MEDIUM ENTERPRISES,
KARTAVYA BHAWAN BUILDING 03
KARTAVYA PATH
NEW DELHI – 110 001.
8. SUPERINTENDENT OF POLICE,
NEAR A.B. SHETTY CIRCLE,
PANDESHWARA, MANGALORE
DAKSHINA KANNADA DISTRICT – 575 001
KARNATAKA.
9. THE STATION HOUSE OFFICER,
PUNJALKATTE POLICE STATION,
PILATHABETTU, BANTWALA TALUK ,
DAKSHINA KANNADA DISTRICT – 574 233
KARNATAKA.

...RESPONDENTS

(BY SRI HARSHA P. BANAD, CGC FOR R-1, R-6 & R-7;
SRI PRAKASHA HEGDE, ADVOCATE FOR R-3)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THE WRIT APPEAL AND SET ASIDE THE ORDER DATED 16.02.2026 PASSED BY THE LEARNED SINGLE JUDGE IN W.P.NO.35389/2025 ALLOWING THE WRIT PETITION AND ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE K.S. HEMALEKHA)

1. The appellants, who were the petitioners in W.P. No.35389/2025 (GM-DRT), have preferred this intra-court appeal calling in question the order dated 16.02.2026 [**impugned order**] passed by the learned Single Judge of this Court, whereby the writ



CNR: KAHC010205352026

petition came to be dismissed, principally on the grounds of delay and laches and the availability of an efficacious alternative remedy under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest, 2002 [**SARFAESI Act**]. Liberty was, nevertheless, reserved to the appellants to approach the appropriate forum within 30 days and the benefit of Section 14 of the Limitation Act, 1963, was also extended to them.

Prefatory facts

2. The facts giving rise to the present appeal may be noted in some detail.
3. The appellants are concerns engaged in the cashew-processing business and had availed themselves of various credit facilities from the respondent, Canara Bank. The said facilities were secured, *inter alia*, by hypothecation of stocks, plant and machinery and by mortgage of several immovable properties belonging to the borrowers and guarantors.
4. The case of the appellants is that, owing to the financial difficulties occasioned by the COVID-19 pandemic, they had approached the Bank seeking restructuring/revival of the credit



CNR: KAHC010205352026

facilities and extension of the benefits available to Micro, Small, and Medium Enterprises **[MSMEs]** under the applicable Government of India and Reserve Bank of India **[RBI]** Frameworks. The appellants contend that, without appropriately considering such request, the Bank proceeded to classify the loan accounts as Non-Performing Assets **[NPA]**.

5. Consequent upon such classification, the Bank issued demand notice dated 04.05.2023 to each of the appellants under Section 13(2) of the SARFAESI Act and thereafter issued possession notice dated 01.08.2023 under Section 13 (4) of the SARFAESI Act read with Rule 8 of the Security Interest (Enforcement) Rules, 2002 **[Rules]**. The appellants challenged the possession notice before the Debts Recovery Tribunal-1, Karnataka, Bengaluru **[DRT]** in S.A. No.557/2023, which was dismissed as barred by limitation on 28.03.2024. The Bank thereafter withdrew the earlier demand notice on 12.04.2024 and issued fresh demand notice dated 16.04.2024 under Section 13(2) of the SARFAESI Act. The notice record the respective dates on which the loan accounts were classified as NPAs and called upon the borrowers and guarantors to discharge the outstanding



CNR: KAHC010205352026

NC: 2026:KHC:54618-DB
WA No. 935 of 2026

liabilities within the statutory period. The appellants submitted a reply to the said notice on 03.06.2024. The Bank thereafter issued fresh possession notice dated 07.08.2024 under Section 13 (4) of the SARFAESI Act. The said measure was again challenged before the DRT in SA No.507/2024, which came to be dismissed on 10.01.2025.

6. In the meanwhile, the Bank had also invoked Section 14 of the SARFAESI Act and obtained an order dated 15.01.2025 from the Principal Senior Civil Judge and Chief Judicial Magistrate in Crl. Misc. No.283/2024 for taking possession of the secured assets. The appellants challenged the said proceedings before the DRT by filing S.A. No.41/2025, which also came to be dismissed on 28.02.2025.

7. The appellants approached this Court in W.P. No.1468/2025 (GM-DRT), challenging the order passed in S.A. No.507/2024. The said writ petition came to be dismissed on 22.01.2025, holding that the appellants had an efficacious remedy before the Debts Recovery Appellate Tribunal [**DRAT**]. In the meantime, the Bank, instituted proceedings under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993, in OA No.590/2024, seeking recovery of



CNR: KAHC010205352026

its dues, which came to be allowed on 30.04.2025. The appellants also invoked the appellate remedy before the Debts Recovery Appellate Tribunal at Chennai. However, AIR (SA) No.264/2025 was dismissed on 29.09.2025 for non-compliance with the statutory requirement of pre-deposit.

8. Thereafter, the appellants instituted W.P. No.35389/2025 (GM-DRT) on 17.11.2025, principally seeking to challenge the original classification of the loan accounts as NPAs and all consequential proceedings under the SARFAESI Act, on the basis that the Bank had failed to consider and apply the MSME revival - restructuring framework and the RBI resolution framework for COVID-19 before classifying the loan accounts as NPAs.

Submissions

9. The learned Senior Counsel appearing for the appellants would contend that the learned Single Judge erred in dismissing the writ petition merely on the grounds of availability of an alternative remedy and delay and laches. It is contended that the classification of the loan accounts as NPAs was itself contrary to the mandatory MSME revival and restructuring framework and



CNR: KAHC010205352026

therefore, all consequential measures taken under the SARFAESI Act stood vitiated. It is contended that the proceedings earlier instituted before DRT / DRAT were directed against particular measures by the Bank under Sections 13 (4) and 14 of the SARFAESI Act and did not result in an adjudication on merits of the foundational question regarding the legality of the NPA classification. Therefore, it is contended that the availability of statutory remedies under Sections 17 and 18 of the SARFAESI Act or earlier invocation of such remedies, would not preclude the exercise of jurisdiction under Article 226 of the Constitution, where the very foundation of the SARFAESI proceedings is alleged to be illegal.

10. The learned Single Judge, upon noticing the entire chronology, found that the appellants had challenged the successive steps taken by the Bank under the SARFAESI Act by filing Securitisation Application before the DRT. The learned Single Judge also noticed that, when the appellants had earlier approached this Court in W.P. No.1468/2025 (GM-DRT), they were relegated to the efficacious alternative remedy available before the DRAT. It was further noticed that, despite fully aware of the



CNR: KAHC010205352026

proceedings and orders passed from time to time, the appellants did not effectively prosecute the remedies available to them. In particular, the appeal before the DRAT ultimately came to be dismissed for non-compliance with the requirement of pre-deposit. The learned Single Judge observed that the petition suffered from delay and laches and that in view of the efficacious remedy available to the appellants under the statutory scheme, no case was made out for exercise of the extraordinary jurisdiction under Article 226 and accordingly, dismissed the writ petition.

Reasons and conclusion

11. It is not in dispute that the loan accounts of the appellants were classified as NPAs and that the Bank thereafter initiated proceedings under Section 13 of the SARFAESI Act. The first demand notice under Section 13 (2) of the SARFAESI Act was issued on 04.05.2023, followed by measures under Section 13 (4) of the SARFAESI Act. The appellants were, therefore, fully aware of the NPA classification when they invoked the jurisdiction of the DRT against the measures taken by the Bank.

12. The record further discloses that the appellants have not remained remediless. On the contrary, they have questioned the



CNR: KAHC010205352026

measures taken by the Bank at successive stages. The possession notice dated 07.08.2024 were challenged before the DRT in S.A. No.507/2024. When S.A. No.507/2024 came to be dismissed on 10.01.2025, the appellants approached this Court in W.P. No.1468/2025 (GM-DRT). This Court declined to entertain the writ petition in view of the efficacious statutory remedy available before the DRAT. Thereafter, the appellants instituted proceedings before the DRAT, Chennai in AIR (SA) No.264/2025, which came to be dismissed on 29.09.2025, on account of the appellants' failure to comply with the statutory requirement of pre-deposit under Section 18 of the SARFAESI Act.

13. In the interregnum, the Bank filed application under Section 14 of the SARFAESI Act in Criminal Misc. No.283/2024 for taking possession of the secured assets, which came to be allowed on 15.01.2025. This being the state of affairs, the appellants instituted the writ petition from which the present appeal arises, principally questioning the original classification of their loan accounts as NPAs, on the premise that the Bank had failed to consider the MSME revival/restructuring mechanism and RBI resolution



CNR: KAHC010205352026

framework for COVID-19 before classifying the loan accounts as NPAs.

14. At this stage, it would be apposite to refer to the settled principles governing the exercise of jurisdiction under Article 226 in matters arising out of SARFAESI Act. In **United Bank of India Vs. Satyawati Tondon and Others**¹ the Supreme Court particularly at paragraph Nos.43 to 46, emphasized that although the Rule of exhaustion of alternative remedy is a Rule of discretion and not one of compulsion, the High Courts must exercise self-restraint when a statute provides an effective machinery for redressal of grievances. The Supreme Court emphasized that this Rule assumes greater significance in matters concerning recovery of dues of Banks and financial institutions.

15. The said principle was subsequently reiterated with greater emphasis in **Varimadugu Obi Reddy Vs. B. Sreenivasulu and others**². In that case, the borrowers had initially invoked Section 17 of the SARFAESI Act before the DRT. The order of DRT was appealable under Section 18, subject to statutory requirement of

¹ (2010) 8 SCC 110

² (2023) 2 SCC 168



CNR: KAHC010205352026

NC: 2026:KHC:54618-DB
WA No. 935 of 2026

pre-deposit. The borrowers, without exhausting such appellate remedy, invoked Article 226 of the Constitution. The Supreme Court deprecated such a course and observed that the “circuitous route” adopted by the borrowers appeared to have been resorted to with a view to avoiding the condition of pre-deposit contemplated under the second proviso to Section 18 of the SARFAESI Act.

16. The Supreme Court again expressed concern over such interference in **South Indian Bank Limited and others Vs. Naveen Mathew Philip and another**³. The Supreme Court after noticing **Satyawati Tondon** (*supra*), **Authorized Officer, State Bank of Travancore and another Vs. Mathew K.C.**⁴, **Phoenix ARC Private Limited Vs. Vishwa Bharati Vidya Mandir and others**⁵ and **Varimadugu Obi Reddy** (*supra*), held at paragraph Nos.17 to 17.5 as under:

“17. We shall reiterate the position of law regarding the interference of the High Courts in matters pertaining to the SARFAESI Act by quoting a few of the earlier decisions of this Court wherein the said practice has been deprecated while requesting the High Courts not to entertain such cases.

17.1. Federal Bank Ltd. v. Sagar Thomas [(2003) 10 SCC 733] : (SCC pp. 748, 755-56, paras 18 & 26-27)

³ (2023) 17 SCC 311

⁴ (2018) 3 SCC 85

⁵ (2022) 5 SCC 345



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

“18. From the decisions referred to above, the position that emerges is that a writ petition under Article 226 of the Constitution of India may be maintainable against : (i) the State (Government); (ii) an authority; (iii) a statutory body; (iv) an instrumentality or agency of the State; (v) a company which is financed and owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of public nature; and (viii) a person or a body under liability to discharge any function under any statute, to compel it to perform such a statutory function.

26. A company registered under the Companies Act for the purposes of carrying on any trade or business is a private enterprise to earn livelihood and to make profits out of such activities. Banking is also a kind of profession and a commercial activity, the primary motive behind it can well be said to earn returns and profits. Since time immemorial, such activities have been carried on by individuals generally. It is a private affair of the company though the case of nationalised banks stands on a different footing. There may well be companies, in which majority of the share capital may be contributed out of the State funds and in that view of the matter there may be more participation or dominant participation of the State in managing the affairs of the company. But in the present case we are concerned with a banking company which has its own resources to raise its funds without any contribution or shareholding by the State. It has its own Board of Directors elected by its shareholders. It works like any other private company in the banking business having no monopoly status at all. Any company carrying on banking business with a capital of rupees five lakhs will become a scheduled bank. All the same, banking activity as a whole carried on by various banks undoubtedly has an impact and effect on the economy of the country in general. Money of



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

the shareholders and the depositors is with such companies, carrying on banking activity. The banks finance the borrowers on any given rate of interest at a particular time. They advance loans as against securities. Therefore, it is obviously necessary to have regulatory check over such activities in the interest of the company itself, the shareholders, the depositors as well as to maintain the proper financial equilibrium of the national economy. The banking companies have not been set up for the purposes of building the economy of the State; on the other hand such private companies have been voluntarily established for their own purposes and interest but their activities are kept under check so that their activities may not go wayward and harm the economy in general. A private banking company with all freedom that it has, has to act in a manner that it may not be in conflict with or against the fiscal policies of the State and for such purposes, guidelines are provided by Reserve Bank so that a proper fiscal discipline, to conduct its affairs in carrying on its business, is maintained. So as to ensure adherence to such fiscal discipline, if need be, at times even the management of the company can be taken over. Nonetheless, as observed earlier, these are all regulatory measures to keep a check and provide guidelines and not a participatory dominance or control over the affairs of the company. For other companies in general carrying on other business activities, maybe manufacturing, other industries or any business, such checks are provided under the provisions of the Companies Act, as indicated earlier. There also, the main consideration is that the company itself may not sink because of its own mismanagement or the interest of the shareholders or people generally may not be jeopardised for that reason. Besides taking care of such interest as indicated above, there is no other interest of the State, to control the affairs and management of the private companies. Care is taken in regard to the industries covered under the Industries (Development and Regulation) Act, 1951 that their production, which is important for the



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

economy, may not go down, yet the business activity is carried on by such companies or corporations which only remains a private activity of the entrepreneurs/companies.

27. Such private companies would normally not be amenable to the writ jurisdiction under Article 226 of the Constitution. But in certain circumstances a writ may issue to such private bodies or persons as there may be statutes which need to be complied with by all concerned including the private companies. For example, there are certain legislations like the Industrial Disputes Act, the Minimum Wages Act, the Factories Act or for maintaining proper environment, say the Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1974, etc. or statutes of the like nature which fasten certain duties and responsibilities statutorily upon such private bodies which they are bound to comply with. If they violate such a statutory provision a writ would certainly be issued for compliance with those provisions. For instance, if a private employer dispenses with the service of its employee in violation of the provisions contained under the Industrial Disputes Act, in innumerable cases the High Court interfered and has issued the writ to the private bodies and the companies in that regard. But the difficulty in issuing a writ may arise where there may not be any non-compliance with or violation of any statutory provision by the private body. In that event a writ may not be issued at all. Other remedies, as may be available, may have to be resorted to."

17.2. United Bank of India v. Satyawati Tondon [(2010) 8 SCC 110] : (SCC pp. 123 & 128, paras 42-45 & 55)

"42. There is another reason why the impugned order should be set aside. If Respondent 1 had any tangible grievance against the notice issued under Section 13(4) or action taken under Section 14, then she could have availed remedy by



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

filing an application under Section 17(1). The expression “any person” used in Section 17(1) is of wide import. It takes within its fold, not only the borrower but also the guarantor or any other person who may be affected by the action taken under Section 13(4) or Section 14. Both, the Tribunal and the Appellate Tribunal are empowered to pass interim orders under Sections 17 and 18 and are required to decide the matters within a fixed time schedule. It is thus evident that the remedies available to an aggrieved person under the SARFAESI Act are both expeditious and effective.

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



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

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.

55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

17.3. State Bank of Travancore v. Mathew K.C. [(2018) 3 SCC 85] : (SCC pp. 89-91 & 93-94, paras 5, 8-9 & 15)

“5. We have considered the submissions on behalf of the parties. Normally this Court in exercise of jurisdiction under Article 136 of the Constitution is loath to interfere with an interim order passed in a pending proceeding before the High Court, except in special circumstances, to prevent manifest injustice or abuse of the process of the court. In the present



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

case, the facts are not in dispute. The discretionary jurisdiction under Article 226 is not absolute but has to be exercised judiciously in the given facts of a case and in accordance with law. The normal rule is that a writ petition under Article 226 of the Constitution ought not to be entertained if alternate statutory remedies are available, except in cases falling within the well-defined exceptions as observed in CIT v. Chhabil Dass Agarwal [(2014) 1 SCC 603], as follows : (SCC p. 611, para 15)

‘15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e. where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case [1964 SCC OnLine SC 13], Titaghur Paper Mills case [(1983) 2 SCC 433] and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.’

8. The Statement of Objects and Reasons of the SARFAESI Act states that the banking and financial sector in the country was felt not to have a level playing field in comparison to other participants in the financial markets in the world. The financial



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

institutions in India did not have the power to take possession of securities and sell them. The existing legal framework relating to commercial transactions had not kept pace with changing commercial practices and financial sector reforms resulting in tardy recovery of defaulting loans and mounting non-performing assets of banks and financial institutions. Narasimhan Committee I and II as also the Andhyarujina Committee constituted by the Central Government Act had suggested enactment of new legislation for securitisation and empowering banks and financial institutions to take possession of securities and sell them without court intervention which would enable them to realise long-term assets, manage problems of liquidity, asset liability mismatches and improve recovery. The proceedings under the Recovery of Debts and Bankruptcy Act, 1993 (hereinafter referred to as "the DRT Act") with passage of time, had become synonymous with those before regular courts affecting expeditious adjudication. All these aspects have not been kept in mind and considered before passing the impugned order.

9. Even prior to the SARFAESI Act, considering the alternate remedy available under the DRT Act it was held in *Punjab National Bank v. O.C. Krishnan* [(2001) 6 SCC 569] that : (SCC p. 570, para 6)

'6. The Act has been enacted with a view to provide a special procedure for recovery of debts due to the banks and the financial institutions. There is a hierarchy of appeal provided in the Act, namely, filing of an appeal under Section 20 and this fast-track procedure cannot be allowed to be derailed either by taking recourse to proceedings under Articles 226 and 227 of the Constitution or by filing a civil suit, which is expressly barred. Even though a provision under an Act cannot expressly oust the jurisdiction of the court under Articles 226 and 227 of the Constitution, nevertheless, when there is an alternative remedy available, judicial prudence demands



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

that the Court refrains from exercising its jurisdiction under the said constitutional provisions. This was a case where the High Court should not have entertained the petition under Article 227 of the Constitution and should have directed the respondent to take recourse to the appeal mechanism provided by the Act.'

15. It is the solemn duty of the court to apply the correct law without waiting for an objection to be raised by a party, especially when the law stands well settled. Any departure, if permissible, has to be for reasons discussed, of the case falling under a defined exception, duly discussed after noticing the relevant law. In financial matters grant of ex parte interim orders can have a deleterious effect and it is not sufficient to say that the aggrieved has the remedy to move for vacating the interim order. Loans by financial institutions are granted from public money generated at the taxpayer's expense. Such loan does not become the property of the person taking the loan, but retains its character of public money given in a fiduciary capacity as entrustment by the public. Timely repayment also ensures liquidity to facilitate loan to another in need, by circulation of the money and cannot be permitted to be blocked by frivolous litigation by those who can afford the luxury of the same. The caution required, as expressed in *Satyawati Tondon* [(2010) 8 SCC 110], has also not been kept in mind before passing the impugned interim order : (SCC pp. 123-24, para 46)

'46. It must be remembered that stay of an action initiated by the State and/or its agencies/instrumentalities for recovery of taxes, cess, fees, etc. seriously impedes execution of projects of public importance and disables them from discharging their constitutional and legal obligations towards the citizens. In cases relating to recovery of the dues of banks, financial institutions and secured creditors, stay



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

granted by the High Court would have serious adverse impact on the financial health of such bodies/institutions, which (sic will) ultimately prove detrimental to the economy of the nation. Therefore, the High Court should be extremely careful and circumspect in exercising its discretion to grant stay in such matters. Of course, if the petitioner is able to show that its case falls within any of the exceptions carved out in Baburam Prakash Chandra Maheshwari v. Antarim Zila Parishad [1968 SCC OnLine SC 45], Whirlpool Corpn. v. Registrar, Trade Marks [(1998) 8 SCC 1] and Harbanslal Sahnia v. Indian Oil Corpn. Ltd. [(2003) 2 SCC 107] and some other judgments, then the High Court may, after considering all the relevant parameters and public interest, pass an appropriate interim order.’ ”

17.4. Phoenix ARC (P) Ltd. v. Vishwa Bharati Vidya Mandir [(2022) 5 SCC 345] : (SCC pp. 359-61, paras 18 & 21)

“18. Even otherwise, it is required to be noted that a writ petition against the private financial institution — ARC — the appellant herein under Article 226 of the Constitution of India against the proposed action/actions under Section 13(4) of the SARFAESI Act can be said to be not maintainable. In the present case, the ARC proposed to take action/actions under the SARFAESI Act to recover the borrowed amount as a secured creditor. The ARC as such cannot be said to be performing public functions which are normally expected to be performed by the State authorities. During the course of a commercial transaction and under the contract, the bank/ARC lent the money to the borrowers herein and therefore the said activity of the bank/ARC cannot be said to be as performing a public function which is normally expected to be performed by the State authorities. If proceedings are initiated under the SARFAESI Act and/or any proposed action is to be taken and the borrower is



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

aggrieved by any of the actions of the private bank/bank/ARC, borrower has to avail the remedy under the SARFAESI Act and no writ petition would lie and/or is maintainable and/or entertainable. Therefore, decisions of this Court in *Praga Tools Corpn.* [(1969) 1 SCC 585] and *Ramesh Ahluwalia* [(2012) 12 SCC 331] relied upon by the learned counsel appearing on behalf of the borrowers are not of any assistance to the borrowers.

21. Applying the law laid down by this Court in *Mathew K.C.* [(2018) 3 SCC 85] to the facts on hand, we are of the opinion that filing of the writ petitions by the borrowers before the High Court under Article 226 of the Constitution of India is an abuse of process of the court. The writ petitions have been filed against the proposed action to be taken under Section 13(4). As observed hereinabove, even assuming that the communication dated 13-8-2015 was a notice under Section 13(4), in that case also, in view of the statutory, efficacious remedy available by way of appeal under Section 17 of the SARFAESI Act, the High Court ought not to have entertained the writ petitions. Even the impugned orders passed by the High Court directing to maintain the status quo with respect to the possession of the secured properties on payment of Rs 1 crore only (in all Rs 3 crores) is absolutely unjustifiable. The dues are to the extent of approximately Rs 117 crores. The ad interim relief has been continued since 2015 and the secured creditor is deprived of proceeding further with the action under the SARFAESI Act. Filing of the writ petition by the borrowers before the High Court is nothing but an abuse of process of court. It appears that the High Court has initially granted an ex parte ad interim order mechanically and without assigning any reasons. The High Court ought to have appreciated that by passing such an interim order, the rights of the secured creditor to recover the amount due and payable have been seriously prejudiced. The secured creditor and/or its assignor



CNR: KAHC010205352026

**NC: 2026:KHC:54618-DB
WA No. 935 of 2026**

have a right to recover the amount due and payable to it from the borrowers. The stay granted by the High Court would have serious adverse impact on the financial health of the secured creditor/assignor. Therefore, the High Court should have been extremely careful and circumspect in exercising its discretion while granting stay in such matters. In these circumstances, the proceedings before the High Court deserve to be dismissed.”

17.5. Varimadugu Obi Reddy v. B. Sreenivasulu
[(2023) 2 SCC 168] : (SCC p. 183, para 36)

“36. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of pre-deposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated under 2nd proviso to Section 18 of the 2002 Act.””

17. The Supreme Court reiterated that where a specific statutory adjudicatory mechanism is provided, the exercise of jurisdiction under Article 226 of the Constitution ought to be confined to extraordinary circumstances, particularly in commercial matters



CNR: KAHC010205352026

involving a lender and a borrower, where the legislature has provided a specific mechanism for appropriate redressal.

18. The aforesaid principles apply with greater force to the present case. Indeed, the present case stands on somewhat a different footing, inasmuch as the appellants did not merely have a statutory remedy available to them; they actually invoked the statutory remedies at successive stages. They approached the DRT and when the orders were passed against them, approached this Court, where they were relegated to the statutory mechanism and thereafter, approached the DRAT. The proceedings before the DRAT ultimately failed because the appellants did not comply with the statutory condition of pre-deposit.

19. The statutory requirement of pre-deposit under Section 18 of the SARFAESI Act cannot be rendered otiose in this manner. Once the appellants elected to pursue the statutory remedies and the appellate proceedings failed on account of non-compliance with the pre-deposit requirement, permitting them thereafter to reopen the entire recovery process by tracing their grievance to the original classification of the loan accounts as NPA would, in substance, permit them to accomplish indirectly what the statutory scheme did



CNR: KAHC010205352026

not permit them to accomplish directly. It is precisely such a “circuitous route” that the Supreme Court deprecated in **Varimadugu Obi Reddy** (*supra*).

20. The learned Single Judge has taken note of the considerable delay in challenging the NPA classification. The extraordinary jurisdiction under Article 226 of the Constitution, being discretionary in nature, cannot ordinarily be invoked to challenge an antecedent cause of action after the litigant has pursued successive remedies against its consequential measures arising therefrom.

21. Accordingly, we find no ground warranting interference with the order of the learned Single Judge. The writ appeal is devoid of merit and is accordingly dismissed.

22. The pending interlocutory application stands disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(K.S. HEMALEKHA)
JUDGE**