



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on : 04 February 2025**
Judgment pronounced on : 11 March 2025

+ W.P.(C) 6991/2024, CM APPL. 29092/2024, CM APPL. 46443/2024, CM APPL. 46467/2024 & CM APPL. 72372/2024

STATE BANK OF INDIAPetitioner
Through: Mr. Ankur Mittal, Mr. Abhay
Gupta and Ms. Muskan Jain,
Adv.

versus

M/S. P. P. JEWELLERS PRIVATE LIMITEDRespondents
Through: Mr. Sanjeev Bhandari, Mr. Ravi
Data, Mr. Rajesh Sharma, Adv.
Ms. Jyoti Taneja, Mr. Shantanu
Sharma, Mr. Moksh Tyagi and
Ms. Reny Chauhan, Adv. for
Intervenors.

+ W.P.(C) 7017/2024, CM APPL. 29207/2024, CM APPL. 46453/2024, CM APPL. 46461/2024 & CM APPL. 72386/2024

STATE BANK OF INDIAPetitioner
Through: Mr. Ankur Mittal, Mr. Abhay
Gupta and Ms. Muskan Jain,
Adv.

versus

M/S PP JEWELLERS PRIVATE LIMITEDRespondent
Through: Mr. Sanjeev Bhandari, Mr. Ravi
Data, Mr. Rajesh Sharma, Adv.



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Ms. Jyoti Taneja, Mr. Shantanu Sharma, Mr. Moksh Tyagi and Ms. Reny Chauhan, Advs. for Intervenors.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

DHARMESH SHARMA, J.

1. This common judgment shall adjudicate upon the aforementioned two writ petitions, which raise a common question of law and facts and can be conveniently heard and disposed of together.

FACTUAL MATRIX:

2. The petitioner, State Bank of India, is a body corporate constituted under the State Bank of India Act, 1955, having its Corporate Centre at State Bank Bhawan, Madame Cama Road, Nariman Point, Mumbai, and a Local Head Office at 11, Parliament Street, New Delhi, while the respondent, M/s. P.P. Jewellers Pvt. Ltd. is a company incorporated under the Companies Act, 1956, with its registered office at P.P. Tower, H-5, Netaji Subhash Place, Pitampura, New Delhi.

3. Briefly stated, the respondent availed various loan facilities from the petitioner Bank and its erstwhile subsidiaries for financial assistance towards its projects. To secure these facilities, the petitioner issued multiple sanction letters including those dated 15.03.2013 and 31.03.2014, and various security documents were executed by the



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respondent including charges created on the entire assets and current assets of the respondent on 28.08.2013 and 31.12.2014, supported by personal Guarantee Deeds executed by the Directors of the Respondent on multiple dates, corporate Guarantee executed by M/s Veekay Exim Pvt. Ltd., letters of acknowledgment regarding guarantees and mortgage of immovable properties with respect to the properties located in Delhi and New Delhi.

4. It is brought on the record that the respondent's loan account became irregular and overdue on 31.03.2016, leading to its classification as an NPA¹ by the petitioner Bank. Consequently, a demand notice under Section 13(2) of the SARFAESI Act², was issued on 08.09.2016 to the respondent and its guarantors, recalling the outstanding dues. Subsequent thereto, the respondent proposed an OTS³, which was duly accepted on 15.01.2018 for an amount of Rs. 145 crores against the loan facilities availed by the PP Jewellers group through its three accounts i.e., M/s PP Jewellers Private Limited (respondent), PP Jewellers (Delhi) and PP Jewellers (Exports). However, due to non-compliance on the part of the respondent and its guarantors, the OTS was cancelled on 19.03.2019, after partial payments amounting to Rs. 29,60,99,920/- were received.

¹ Non-Performing Asset

² Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

³ One-Time Settlement



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5. Thereafter, the petitioner Bank issued another demand notice on 19.08.2019 under Section 13(2) of the SARFAESI Act and called upon the corporate guarantor and personal guarantors of the respondent to repay the outstanding dues. In light of the defaults, on 04.05.2022, the petitioner Bank filed an application under Section 14 of the SARFAESI Act, before the learned Chief Metropolitan Magistrate, North-West District Rohini Courts, Delhi [“CMM”], seeking possession of the mortgaged immovable property situated at Plot No. 4, Block C-8, Rana Pratap Bagh, Delhi. Meanwhile, on 16.05.2022, the respondent submitted another OTS proposal for settlement of its dues for Rs. 96 Crores.

6. The aforementioned application was listed for physical verification of documents on 04.06.2022. However, in view of the absence of any representative on behalf of the petitioner Bank, owing to the authorized officer being on leave from 02.06.2022 to 04.06.2022, no appearance was entered before the learned CMM. Consequently, the learned CMM dismissed the said application for non-prosecution. Furthermore, the learned CMM recorded certain adverse observations against the Petitioner Bank, indicating a lack of diligence in enforcing security and suggesting possible collusion with the Respondent.

7. Aggrieved by the aforesaid adverse remarks, the petitioner Bank promptly filed fresh applications under Section 14 of the SARFAESI Act, bearing Ct. Case No. 5846/ 2022 & 5847/2022, which were duly allowed by the learned CMM vide order dated 29.06.2022, directing a



Court-Appointed Receiver to take possession of the secured asset. Subsequently, the petitioner Bank approved the respondent's OTS proposal vide letter dated 30.11.2022. However, as of 30.09.2023, being the last date of the OTS period, the petitioner Bank has received only Rs. 34 Crores against the agreed sum of Rs. 96 Crores.

8. The grievance of the petitioner Bank is that notwithstanding the favourable order dated 29.06.2022, the adverse remarks recorded in the order dated 04.06.2022 continue to cause irreparable harm to the petitioner Bank's reputation and interests. In view thereof, the petitioner Bank has preferred the present writ petitions, seeking the expungement of the said remarks made by the learned CMM, North-West District, Rohini Courts, Delhi, in Ct. Case No. 5105/2022 & 5106/2022. In furtherance of the aforementioned proceedings, the petitioner Bank also filed an application bearing C.M. APPL.29207/2024 in the connected petitions, seeking an ex-parte interim stay on the operation of the impugned order dated 04.06.2022.

LEGAL SUBMISSIONS ADVANCED AT THE BAR:

9. Learned counsel for the petitioner contended that the adverse remarks made by the learned CMM, in the order dated 04.06.2022, were beyond the jurisdictional scope of proceedings under Section 14 of the SARFAESI Act. It is urged that the exercise of powers under Section 14, is a ministerial function rather than a quasi-judicial or adjudicatory role. Therefore, the impugned remarks, being extraneous to the scope of the proceedings, are without jurisdiction. It is urged that the



impugned remarks have not only caused irreparable reputational harm to the petitioner, a nationalized bank, but are also being improperly relied upon in unrelated proceedings, thereby obstructing the recovery of public funds.

10. In his submissions, learned counsel for the petitioner Bank has referred to the decision in the case **R.D. Jain & Co. v. Capital First Ltd.**⁴, wherein it was held:

"25. As observed and held by this Court in NKGSB Coop. Bank Ltd. v. Subir Chakravarty, (2022) 10 SCC 286 : (2023) 1 SCC (Cri) 157, the step taken by the CMM/DM while taking possession of the secured assets and documents relating thereto is purely ministerial. Such an act may be performed by the CMM/DM personally or through any subordinate officer, including an Advocate Commissioner, who is deemed an officer of the court. Section 14 does not necessitate the CMM/DM to personally take possession of the secured assets. Hence, while disposing of an application under Section 14 of the SARFAESI Act, no element of quasi-judicial function or independent application of mind is required. The Magistrate is only required to verify the correctness of the information furnished in the application and nothing more."

11. The learned Senior Counsels appearing for the interveners, namely M/s Purnima Associates Pvt. Ltd/ intervenor No. 1, which claims to maintain a substantial 14.07% shareholding in the respondent/ PP Jewellers company and M/s LR Builders Pvt. Ltd./ intervenor No. 2, contend that the petition filed by the petitioner Bank before the Rohini District Courts was collusive and orchestrated in concert with Mr. Kamal Gupta, a principal borrower. It stated that the petitioner

⁴ (2023) 1 SCC 675,



Bank has not only misrepresented facts and concealed material information in the matter but also intentionally failed to implead the interveners as parties.

12. It is asserted that while the petitioner Bank initiated proceedings under the IBC⁵ against the respondent, it simultaneously made representations indicating an ongoing settlement process. Furthermore, a purported OTS was entered into between the petitioner Bank and Mr. Kamal Gupta, and by an order dated 09.01.2023 passed by the NCLT⁶, liberty was expressly granted to the petitioner Bank to revive the IBC proceedings against the respondent upon default of the OTS terms. However, despite the admitted non-payment of the settlement amount, the bank has not revived the IBC proceedings, thereby rendering the present petition *mala fide*.

13. It is further alleged that the petitioner Bank has misrepresented its possession of the property situated at A-13, CC Colony, measuring 300 square yards, opposite Rana Pratap Bagh, New Delhi, as photographic evidence submitted before the Court establishes that the property remains in the possession of Mr. Kamal Gupta and his family. It has been brought to the fore that the present writ petitions are misconceived and constitute an abuse of the legal process, as the cause of action raised by the petitioner is already *sub judice* and pending adjudication before the Division Bench of this Court in L.P.A. No. 236

⁵ Insolvency and Bankruptcy Code, 2016

⁶ National Company Law Tribunal



of 2024. The said L.P.A. arises from. CM APPL. 15066/2024, filed by L.R. Builders Pvt. Ltd. in Writ Petition No. WP(C) 3158 of 2024. In these circumstances, the filing of the present petition not only amounts to an abuse of process but also risks creating inconsistencies and complications in the adjudication of the L.P.A. filed by the petitioner itself.

14. Learned counsel for the interveners has placed reliance on **State of Jammu and Kashmir v. R.K. Zalpuri**⁷, wherein it was held that a party cannot invoke the Court's extraordinary and equitable jurisdiction at its convenience after an undue delay. It is also pointed out that the present petitions constitute an attempt to circumvent the orders passed by this Court *vide* order dated 20.02.2024 in CONT.CAS(C) 649/2022 and order dated 19.03.2024 in CONT.CAS(C) 1058/2023 which took judicial note of the fact that despite interim protective orders passed by the Learned DRT, the securities created by the borrowers in favour of the Bank have been illegally dissipated or alienated. The existence of collusion is further substantiated by the registration of FIR No. 106/2022 dated 26.08.2022 under Sections 409 and 120-B of the Indian Penal Code, 1860, against the bank officials and Mr. Kamal Gupta.

15. Significantly, the bank officials filed Writ Petition WP(Crl) No. 2152/2022 seeking quashing of the said FIR. In the course of those proceedings, pursuant to the directions of this Court, the Delhi Police

⁷ (2015) 15 SCC 602



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has submitted three ATRs⁸, which unequivocally indicate that the bank officials and Mr. Kamal Gupta were acting in collusion. The reports further disclose that the stocks were siphoned off by PPJPL⁹ in connivance with the bank officials, who wilfully ignored these actions. Lastly, it is urged that the alleged collusion between the petitioner Bank and a loan defaulter necessitates an investigation by the CBI¹⁰ and the CVC¹¹.

16. In rejoinder, learned counsel for the petitioner Bank submits that Intervenor No. 1 and Intervenor No. 2, represented by Mr. Rahul Gupta, son of Mr. Kamal Gupta (a Director of the respondent), have no privity with the petitioner Bank or any legitimate connection to the present proceedings. Intervenor No. 1 lacks any legal standing concerning the petitioner Bank, while Intervenor No. 2 is merely a corporate guarantor for M/s P.P. Jewellers (Delhi), a partnership firm, which is entirely unrelated to the subject matter of the present Writ Petition. Furthermore, the loan account of M/s P.P. Jewellers (Delhi) has already been settled and closed, as recorded in the order dated 29.11.2024, passed by the Division Bench of this Court in LPA 963/2024.

17. It was further contended that the aforementioned facts unequivocally establish that Intervenor No. 1 and Intervenor No. 2 have no connection with either the respondent or the issues under

⁸ Action Taken Reports

⁹ PP Jewelers Pvt. Ltd.

¹⁰ Central Bureau of Investigation

¹¹ Central Vigilance Commission



consideration in the present writ petition. As such, the intervention application is nothing more than a vexatious and frivolous attempt to initiate baseless litigation with the sole intention of harassing the petitioner Bank. It is urged that the applicants have no direct or indirect link with the impugned order dated 04.06.2022 or with the loan facility availed by the respondent. Moreover, the relief sought in the present application pertains to a third entity, namely P.P. Jewellers Retail Private Limited, which has no relevance whatsoever to the subject matter of the present writ petition.

ANALYSIS AND DECISION:

18. I have given my thoughtful consideration to the submissions advanced by the learned counsels for the parties at the Bar. I have gone through the digitized record of the present case including the case law cited at the Bar.

19. This is a luxury litigation which is being pursued by the petitioner Bank challenging an innocuous order of the learned CMM, which in no way causes it any irreparable loss of reputation or loss of face. It would be expedient to reproduce the order dated 04.06.2022 passed by the learned CMM, which goes as under:

“04.06.2022

Present: Ld. Counsel for the complainant.

Submissions heard. Record perused.

Some more time is sought by the counsel for the complainant to produce the original documents on the ground that today also original could not be produced as the concerned person is on leave. This is the third date to produce the original documents but today also adjournment is sought.



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Perusal of record shows that the present application U/s 14 of Sarfaesi Act was filed on 06.05.2022 and on that day Ld. Counsel for the complainant sought adjournment to produce the original documents. Thereafter, the matter was fixed for 19.05.2022 and on that date Ld. Counsel for the complainant and Ld. Counsel for the respondent have also appeared and both sought adjournment on the ground that some settlement talks were going on between the parties but when the Ld. Counsel was directed to file an application in writing then in writing the ground was taken that the title deed could not be retrieved and therefore, at request today's date was granted.

Today also, Ld. Counsel for the complainant appeared and sought adjournment on the ground that due to personal exigency the AGM/AR in the present matter is on short leave w.e.f. 02.06.2022. Copy of email placed on record. The same is perused which reflects that the concerned person is on short leave but whether he is on leave today or not is not mentioned and neither it is mentioned that whether the title deeds have been retrieved or not.

Perusal of record further reveals that in the present matter around Rs.31,41,89,328.33/- of public money is involved and the applicant bank is just taking dates on one ground or another most probably in connivance with the respondents which is clear from the fact that the respondents knew about the date in the present case and appeared on the last date of hearing and appeared today also.

The conduct of the bank is not appreciable in the present case as they are not serious to attach/take the possession of the secured asset against which they have disbursed such a huge loan involving public money and it is clear that the applicant bank is hand in glove with the respondent, hence, they are lingering on the matter and providing opportunity to the respondent to sell the secured asset and flee away and thereafter the public money would not be recovered due to the conduct of the applicant bank.

Keeping in view the conduct of the applicant bank no further opportunity can be granted as it will give further opportunity to the bank official to manipulate and raise illegal demands from the respondent on account of this pending application which the respondents are happy to oblige, hence, the present application is hereby dismissed for non prosecution.

Further, in view of the above mentioned facts and circumstances I am constrained to send the copy of this order to the **Chairman, State Bank of India** through Main Branch of State Bank of India, Dblock, 11, Sansad Marg Road, Parliament Street, Delhi 110001 near Jantar Mantar and **Governor, Reserve Bank of**



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India at 6, Sansad Marg, New Delhi 110001 for kind information/appropriate action under intimation to this court through ACP, Subhash Place, Delhi, so that the bank officials should not delay such type of cases where huge public money is involved
File be consigned to record room after due compliance.”

20. A careful perusal of the aforesaid order would show that learned CMM was concerned that a huge amount of public money was involved and unnecessary adjournments were being sought and it was in the said context that castigating the concerned official of the bank, the matter was referred to the Chairman, State of Bank of India to take action against the erring bank officials. Indeed, the exercise of jurisdiction under Section 14 of the SARFAESI Act is ministerial in nature but then, as decided by this Court in the case of *R.D. Jain & Co. v. Capital First Ltd (supra)*, the Magistrate is only required to verify the correctness of the information furnished in the application and proceed in terms of the procedure prescribed. It appears that there was shown no alacrity on the part of the bank in satisfying the learned CMM about the correctness of the information furnished and the measures that were being taken to pursue the recovery of loan amount in right earnest. It is not the law that the learned CMM should be sitting like a silent spectator in Court and allow any party under the SARFAESI Act to abuse the process of law, given the fact that there is a huge pendency of cases in the Court. It is evident that petitioner Bank was not diligently pursuing its remedies.

21. Having said that, this Court does not wish to delve into the merits of the pleas that have been taken on behalf of the interveners. Their only



anxiety seems to be that since the bank officials are delaying the recovery of their loan amount from the respondent No.1, eventually the liability to repay the loan would fall on their shoulders in case the secured assets are allowed to be pilfered away by the petitioner Bank without any timely checks.

22. In summary, the present litigation is ill-conceived and palpably suffering from inordinate delay and barred by laches for having been filed after almost two years of arising of the cause of action.

23. In view of the foregoing discussion, the present writ petitions are dismissed.

24. The pending applications also stand disposed of accordingly.

DHARMESH SHARMA, J.

MARCH 11, 2025

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