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

Date of Decision: 15.09.2025

\+ W.P.(C) 14244/2025, CM APPL. 58414/2025 (Stay) and CM APPL. 58415/2025 (Ex.)

DR VIVEK SINGH .....Petitioner

Through: Mr. Joy Dip Bhattachary and Ms. Satyaarth Balaji Sinha, Advocates.

versus

SHRIRAM FINANCE LTD AND ORS .....Respondents

Through: Mr. Rishi Sehgal, Mr. Midhun Aggarwal and Ms. Ritu Dhingra, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T (ORAL)

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Writ Petition has been filed under Articles 226/227 of the **Constitution of India**[1], challenging the Order dated 07.04.2025 passed by the learned **Debts Recovery Tribunal-II, Delhi**[2], in I.A. No. 368/2025 in S.A. No. 361/2024, as well as the earlier order dated 12.12.2024 passed in S.A. No. 361/2024. The Petitioner, by way of this writ petition, seeks the following substantive reliefs:

[1] Constitution
[2] DRT

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"i. Issue a writ, order or direction in the nature of mandamus thereby directing the Ld. CMM, Saket to issue necessary orders to Respondent No 1 & 2 to restore possession of the i.e., First and Second Floor of property no- 47-B, Kalu Sarai, New Delhi -110016 to the Petitioner.

ii. Issue a writ, order or direction in the nature of mandamus thereby directing the Respondent No 4 to conduct an enquiry into the affairs of the Respondent No 1 qua it's wrongful and illegal possession of property no 47B, Kalu Sarai, New Delhi-110016.

iii. Issue a writ, order or direction in the nature of certiorari thereby calling for records and quash the impugned order dated 07.04.2025 passed by the Ld. DRT in IA No. 368/2025 arising out of SA/361/2024 **(Annexure-P1).**

iv. Issue a writ, order or direction in the nature of certiorari thereby calling for records and quash the impugned order dated 12.12.2024 passed by the Ld. DRT in SA/361/2024 **(Annexure-P2).**

v. Pass any other order this Hon'ble Court this deems fit in the interest of Justice."

2. S.A. No. 361/2024 had originally been filed by the Petitioner before the Learned DRT-II pursuant to the order dated 28.05.2024 passed by the learned **Chief Metropolitan Magistrate, South District, Saket Courts Complex, New Delhi**[3], in C.T. Case No. 1111/2024 titled as "*Shriram Finance Ltd. vs. Gurjeet Singh Cheema and Ors.*". The said case was instituted by the secured creditor, i.e., Respondent No. 1 herein, under Section 14 of the **Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002**[4], pursuant to which possession of property bearing No. 47-B, Kalu Sarai, New Delhi-110016, was taken by the learned Receiver.

3. At the very outset, this Court posed a query to learned counsel for the Petitioner as to how the present petition would be maintainable

[3] CMM
[4] SARFAESI Act

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given the fact that there is an alternative efficacious remedy in the form of an Appeal under Section 18 of the SARFAESI Act, against an order passed under Section 17 of the said Act.

4. Section 18 of the SARFAESI Act reads as follows:

> "**18. Appeal to Appellate Tribunal. -** (1) Any person aggrieved, by any order made by the Debts Recovery Tribunal under section 17, may prefer an appeal along with such fee, as may be prescribed to the Appellate Tribunal within thirty days from the date of receipt of the order of Debts Recovery Tribunal.
> Provided that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower:
> Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:
> Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of debt referred to in the second proviso.
> (2) Save as otherwise provided in this Act, the Appellate Tribunal shall, as far as may be, dispose of the appeal in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and rules made thereunder."

5. The aforesaid statutory provision has been duly read out and brought to the notice of the learned counsel appearing on behalf of the Petitioner.

6. Learned counsel for the Petitioner would, however, state that the present petition is necessitated due to the fact that the Petitioner had mistakenly filed an application under Section 17 of the SARFAESI Act, which, according to him, was not maintainable before the learned DRT.

7. Learned counsel for the Petitioner would further submit that although an error may have been committed, the same ought not to preclude this Court from exercising its jurisdiction. He would contend that, apart from the fact that the application moved by the Petitioner

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was not maintainable before the Learned DRT, there also exists a graver concern, namely that the property belonging to the Petitioner, one which, according to him, clearly falls outside the scope of the proceedings under the SARFAESI Act, has been "*deliberately, knowingly, maliciously and illegally*" proceeded against, resulting in possession being taken thereof.

8. He would then urge that the said illegality, being fundamental in nature, would by itself warrant interference by this Court in the exercise of its powers under Articles 226/227 of the Constitution.

9. During the course of submissions, learned counsel for the Petitioner proceeded to make certain uncharitable and unwarranted remarks against the learned Receiver appointed by the learned CMM.

10. At the very outset, we strongly deprecate the manner in which allegations have been levelled not only in the pleadings but also reiterated during oral arguments against the said Receiver. It is pertinent to note that, by an express order of the learned DRT dated 12.12.2024, the learned Receiver's name was directed to be deleted from the array of parties as Respondent No. 2 therein. Notwithstanding this categorical direction, attempts have been made to attribute *mala fides* and bias to the learned Receiver, thereby unjustifiably casting aspersions on the conduct of an officer of the Court.

11. Further, despite his removal of the array of parties, the Petitioner has impleaded the learned Receiver in the present petition as Respondent No. 2.

12. Turning to the focal issue, it is pertinent to note that Section 18 of the SARFAESI Act unequivocally provides that *"Any person aggrieved, by any order made by the Debts Recovery Tribunal under*

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Section 17, may prefer an appeal …". The language of the provision leaves no scope for ambiguity and clearly makes the maintainability of an appeal contingent upon the existence of an order passed under Section 17 of the Act.

13. We also take note of the observations made by the Hon'ble Supreme Court in ***Celir LLP v. Bafna Motors (Mumbai) (P) Ltd. &Ors***[5], which read as under:

> "**97.** This Court has time and again, reminded the High Courts that they should not entertain petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person under the provisions of the SARFAESI Act. This Court in ***United Bank of India* v. *Satyawati Tondon*, (2010) 8 SCC 110** made the following observations: (SCC pp. 123 & 128, paras 43-45 & 55)
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> > "*43*. Unfortunately, the High Court [*Satyawati Tondon* v. *State of U.P.*, 2009 SCC OnLine All 2608] 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

[5] (2024) 2 SCC 1

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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.

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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."

100. In ***Varimadugu Obi Reddy* v. *B. Sreenivasulu*, (2023) 2 SCC 168**, it was held as under: (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 the second proviso to Section 18 of the 2002 Act."

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

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> under Article 226 of the Constitution. Even after, the decision of this Court in ***United Bank of India* v. *Satyawati Tondon*, (2010) 8 SCC 110**, 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."

14. In light of the foregoing, we are of the considered view that the contention advanced on behalf of the Petitioner, that the foundational application under Section 17 of the SARFAESI Act having been mistakenly filed would, by necessary implication, render an appeal under Section 18 non-maintainable, is wholly untenable. Such a submission deserves outright rejection, particularly when it is borne in mind that the proceedings under Section 17 of the SARFAESI Act filed by the Petitioner are still pending adjudication before the learned DRT.

15. The remaining argument in respect of the alleged action being pursued against the Petitioner's property being proceeded against illegally, the same is a contention which the Petitioner is not precluded from canvassing before the learned **Debts Recovery Appellate Tribunal**[6].

16. In view of the aforementioned, we are of the view that the present Petition is misconceived and the Petitioner is relegated to the alternative efficacious remedy available in the form of an Appeal before the learned DRAT.

17. We would like to caveat our direction with the observation that we have not examined the merits of the matter and the learned DRAT may consider the contentions of the Petitioner without being influenced by any of the observations herein.

18. With these observations, the present Writ Petition, along with

[6] DRAT

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pending applications, if any, is disposed of in the aforesaid terms.

ANIL KSHETARPAL, J.

HARISHVAIDYANATHANSHANKAR, J.

SEPTEMBER 15, 2025/nd/sm/va

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