



2025:004 - 1 K0:29241

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

MATTERS UNDER ARTICLE 227 No. - 7238 of 2025

Dinesh Tripathi

.....Petitioner(s)

Versus

Indian Bank Stressed Assets Management
Lko Thru. Authorized Officer And Another

.....Respondent(s)

Counsel for Petitioner(s) : Abhishek Khare, Aahuti Agarwal,
Navneet Yadav

Counsel for Respondent(s) : Gopal Kumar Srivastava, C.S.C.

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Abhishek Khare, the learned counsel for the petitioner, Sri Dhiraj Ojha, the learned Standing Counsel appearing on behalf of the State, Sri Anurag Srivastava, Advocate who has put in appearance on behalf of the opposite party no.1-Indian Bank and filed his vakalatnama, which is taken on record.

2. By means of the instant petition filed under Article 227 of the Constitution of India, the petitioner has challenged the order dated 07.10.2025, passed by the Debt Recovery Tribunal in Secularization Application No.147 of 2024: M/s Aar Pee Printers and Advertisers and another Vs. Indian Bank to the extent that it does not deal with the petitioner's prayer for restoration of the possession of property bearing House no.2/174, Sector-2, Jankipuram Extension Yojna, Lucknow and has sought issuance of a direction to the respondent no.1-bank to restore possession of the property and not to take any coercive action in respect of the property during pendency of the securitization application.

3. As per the order sheet of S.A. No.147 of 2024 annexed as Annexure No.18 to the petition. The Debt Recovery Tribunal had passed the following order on 24.09.2025:

"Shri Shatrughan Upadhyay Id. Counsel for the applicant is

present.

Shri Vinay Shanker, Ld. Counsel for the respondent bank is present.

Ld. Counsel for the applicant is pressing I.A. No.3568 of 2025 for restraining the respondent bank from taking physical possession of the secured assets. It is further submitted that the respondent bank has obtained order under Section 15 of the SARFAESI Act, 2002 for taking the physical possession of the secured assets.

I find that on previously also on amendment application was filed by the applicant, which was not pressed.

It is submitted that he is not pressing the previous amendment application. In the interest of justice and to take on record.

The subsequent event the amendment application is allowed.

Applicant is directed to incorporate the amendment and provide amended copy of the SA to the respondent bank.

The respondent bank was filed objection/reply to the same.

The respondent bank is further directed to give a fresh 15 days prior notice before taking physical possession of the secured assets.

Applicant is directed to incorporate the amendment within a week of this order.

List this case on 05.06.2026 for further proceedings.

In case of urgency, parties will be at liberty to file urgency application when occasion arises.

Order be uploaded on the Tribunal's website."

4. Submission of the learned counsel for the petitioner is that no fresh 15 days prior notice was given to the petitioner in compliance

of the aforesaid order dated 24.09.2025 and the bank has illegally taken possession of the secured asset on 25.09.2025. He has further submitted that the possession has illegally been taken by the police authorities which is a violation of the law laid down by a Division Bench of this Court in the case of ***Durga Travels through Proprietor and others Vs. D.R.T. Lucknow: (2025) AHC-LKO 15469***, decided on 12.03.2025.

5. Refuting the aforesaid submissions, the learned counsel for the opposite party no.1/bank submitted that on 29.08.2025 the Additional City Magistrate-VII, Lucknow had sent a notice to the petitioner stating that an order dated 08.05.2025 passed by Additional District Magistrate Finance and Revenue, Lucknow under Section 14 of SARFAESI Act has directed the Additional City Magistrate-VII, Lucknow and the Assistant Police Commissioner, Aliganj Lucknow to hand over the possession of the aforesaid acquired asset. Notice directed the petitioner to vacate the property within 15 days failing which the possession of the property will be handed over to the authorized officer of the bank on 25.09.2025. The notice further states that in case any relief has been granted by any competent court in this regard the petitioner should place the same before the Additional City Magistrate-VII, Lucknow.

6. The learned counsel for the petitioner has stated that the order purportedly passed by the DRT on 24.09.2025 was in fact not passed on 25.09.2025 and it was not uploaded on the website of the DRT till about 7.00 p.m. on 25.09.2025. In any case, no such order was in existence till the Additional City Magistrate-VII, Lucknow took possession of the property on 25.09.2025 and handed over to the respondent no.1-bank and the order has been uploaded subsequently. He has further submitted that upon coming to know about the order the petitioner filed an application on 26.09.2025 praying for recall of the order dated 24.09.2025 inter alia stating the aforesaid facts.

7. The petitioner has sought time to file an objection against the

application and it is still pending. The petitioner filed an application for contempt of the order of DRT and for restoration of possession and that is also pending consideration of the Debt Recovery Tribunal.

8. The learned counsel for the petitioner further submitted that although the Additional City Magistrate-VII, Lucknow had subsequently mentioned in the notice dated 29.08.2025 sent to the petitioner that in case any relief is granted by any competent court the petitioner should bring the same to the notice of Additional City Magistrate-VII, Lucknow yet the petitioner did not file any application before the Additional City Magistrate-VII, Lucknow bringing the order dated 24.09.2025 to his knowledge. In these circumstances, the Additional City Magistrate-VII, Lucknow has not committed any illegality in transferring the possession of the secured asset to the petitioner on 25.09.2025.

9. The petitioner has annexed a copy of the affidavit filed in support of the application for recall of order dated 24.09.2025 before the DRT, but the application for recall has not been annexed with the petition. There is no averment in the petition refuting the averments made in the affidavit filed in support of the application for recall of order dated 24.09.2025 that the said order was not passed on 24.09.2025 and till the time the physical possession of the property was taken at around 1.30 p.m. on 29.05.2025 and property was sealed in presence of Additional City Magistrate-VII, Lucknow, no order had been uploaded on the portal of DRT. In these circumstances there appears to be no illegality in the action of taking possession of property on 25.09.2025 and, therefore, there is no good ground to order restoration of possession to the petitioner.

10. So far as the submission of the learned counsel for the petitioner that the order for taking possession of the property has been passed in violation of the law laid down by the ***Durga Travels (Supra)*** the order clearly directs the Additional City Magistrate-VII, Lucknow to take possession of the property and hand over the

same to the petitioner. Merely because police has also been ordered to ensure compliance of the order, it cannot be said that the order directs taking possession by a police officer. As possession has been taken by Additional City Magistrate-VII, Lucknow, the principle of law laid down in ***Durga Travels (Supra)*** have not been violated in the present case.

11. In view of the foregoing discussions, I find no illegality in taking over possession of the secured asset by Additional City Magistrate-VII, Lucknow and handing over the same to the respondent no.1-bank. The petition lacks merit and the same is accordingly **dismissed**.

12. The Securitization Application No.147 of 2024 pending before the DRT be decided expeditiously in accordance with law without granting any unnecessary adjournments to any of the parties.

December 17, 2025

Ram.

(Subhash Vidyarthi,J.)