**HIGH COURT OF JUDICATURE FOR RAJASTHAN**
**BENCH AT JAIPUR**

D.B. Special Appeal (Writ) No. 269/2018
In
S.B. Civil Writ Petition No.22939/2017

Shree Developers, A Partnership Firm, Having Its Office Address At Plot No. 233, Shopping Center, Kota, Rajasthan Through Its Partner Avtar Singh Chandi S/o Shri Gurdeep Singh Chandi, aged about 54 years, Resident Of Chandi Bhawan, Behind Allahbad Bank, Jhalawar Road Kota, Rajasthan, Earlier Through Its Partner Surjeet Singh Chandi

----Appellant

Versus

1. State Bank Of India, Stress Assets Management Branch, 6th Floor, Mohan Singh Palace, Baba Kharag Singh Marg, New Delhi-110001 Through Asst. General Manager And Cl-III
2. State Bank Of India Having Its Head Office State Bank Bhava, 11th Floor, Madam Cama Road, Mumbai, Maharashtra Through Its Manager
3. Samtel Glass Ltd, Having Corporate Office At 501, 5th Floor, Copia Corporate Suits, Dist. Center, Jasola, New Delhi 110025 Through Mr. Satish K. Kaura, CMD
4. Canara Bank, 74, Janpath, New Delhi, 110001 Through Its Senior Manager
5. ICICI Bank Ltd., ICICI Tower, BNCC Place, Bhism Pitamah Marg, Pragati Vihar, New Delhi-110003 Through Its Asst. General Manager
6. Bank Of Baroda, ARMB Branch, Nehru Place, Jaipur Through Its Manager
7. Rajasthan State Industrial Development & Investment Corporation Ltd. Riico, Udyog Bhawan, Tilak Marg, Jaipur-302005, Rajasthan Through Its General Manager

----Respondents

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For Appellant(s) : Mr. Sanjay Jhanwar, Senior Advocate assisted by Mr. Rajat Sharma, Mr. Shubhendra Singh through VC & Mr. Saksham Panday

For Respondent(s) : Mr. Kamlakar Sharma, Senior Advocate assisted by
Ms. Alankrita Sharma,
Mr. Yogsh Kalla, Ms. Vratika Thakur &
Mr. Pratap Thakur
Mr. Ankit Bhaskar
Mr. A.K. Sharma, Senior Advocate through VC assisted by
Mr. Rachit Sharma &
Mr. Madhav Dadhich
Mr. Ajeet Bhandari, Senior Advocate through VC assisted by
Mr. Vikash Jain through VC
Mr. Ankit Totuka through VC
Mr. Rakesh Agari on behalf of
Mr. Namish Nigotia

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**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA**
**HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU**

**JUDGMENT**

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|---|---|---|
| **Date of conclusion of arguments** | **:** | **26/05/2026** |
| **Date on which judgment was reserved** | **:** | **26/05/2026** |
| **Whether the full judgment or only the operative part is pronounced** | **:** | **Full Judgment** |
| **Date of pronouncement** | **:** | **19/06/2026** |

**(Per Hon'ble the Acting Chief Justice)**

1. The present appeal has been preferred by the appellant-writ petitioner assailing the order passed by the learned Single Judge dated 19.01.2018, whereby the writ petition preferred by the appellant-writ petitioner was dismissed and the One Time Settlement (OTS) entered between the bank and the loanee-respondent No.3 was accepted and the prayer to quash the letter dated 26.11.2017 intimating the appellant-writ petitioner of having accepted full and final settlement of SBI dues was rejected with further direction to refund the amount deposited by the appellant-writ petitioner along with interest @8% p.a.

2. The brief facts need to be noticed are that a mortgage had been created of the land and buildings owned by respondent No.3, ad-measuring 27.79 hectares situated at Village Naya Nohra, Tehsil Ladpura, District Kota. The mortgage had been created with the SBI, RIICO, Canara Bank, ICICI Bank and Bank of Baroda in the form of consortium landing.

3. It appears that on 31.12.2011, account with respondent No.3 was declared as NPA and a notice was issued on 14.01.2012 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') on behalf of the consortium of banks with the lead bank, SBI, demanding outstanding dues of Rs.31,76,74,083.92/-. After the loan account was transferred to SBI Stressed Assets Management Branch, another notice dated 10.01.2013 was issued under Section 13(2) of the SARFAESI Act demanding the dues as against SBI alone, which were amounting to Rs.13,01,36,393.10/-. Thereafter, objections were raised under Section 13(3) of the SARFAESI Act by respondent No.3.

4. It is pertinent to mention that after the consortium meeting was held on 03.09.2012, separate notices were also issued by the consortium Banks for outstanding dues of SBI (Rs.13.01 crore), Canara Bank (Rs.10.15 crore), State Bank of Bikaner and Jaipur (Rs.2.41 crore), Bank of Baroda (Rs.8.06 crore) and RIICO (Rs.5.49 crore). Subsequently, it appears that with the consent of the consortium members, the lead bank, namely SBI, took possession of the property and issued auction notice on 11.07.2016. It also published an e-auction notice on the same date. The notice dated 11.07.2016 mentioned the properties of

respondent No.3 ad-measuring 72.12 acres of land, building and plant & machinery, describing the properties required to be sold as under:

| | | | | | |
|---|---|---|---|---|---|
| **M/s/ Samtel Glass Ltd. (B) Sh. Satish Kumar Kaura (G)** | 1) Land (72.12 Acre) & building and Plant & Machinery at 7 Km Stone Kota, Baran Road, Village Naya Nohra, Tehsil, Ladpura, Kota (Rajasthan)-324001. (In case no bid is received for whole lot, we will go for individual auction as mentioned below:) | Rs.7435.00 Lac Rs.743.50 Lac Rs.1.00 Lac | SBI Dues: Rs.22,70,000.00 as on 31-03-2016 + interest at contractual rate w.e.f. 01-04-2016 + expenses and future cost + dues of RIICO & other banks-ICICI, SBBJ, BOB, Canara Bank also exist | Sale on "As is where is Basis" & "As is what is Basis" A.O. Sh. R.K. Maurya (Mob No.9821592500) | 19-08-2016 (Friday) From 01.00 P.M. to 02.00 P.M. |
| | 2) Plant & Machinery at 7 Km stone Kota, Baran Road, Village Naya Nohra, Tehsil, Ladpura, Kota (Rajasthan) 324001 | Rs.468.00 Lac Rs.46.80 Lac Rs.1.00 Lac | | | |
| | 3) Land (72.12 Acre) & building at 7 Km Stone Kota, Baran Road, Village Naya Nohra, Tehsil, Ladpura, Kota (Rajasthan)-324001 (Will be conducted only if plant & machinery at point No.2 is auctioned successfully) | Rs. 6967.00 Lac Rs. 696.70 Lac Rs. 1.00 Lac | | | |

5. The terms and conditions of the e-auction were mentioned as under:

> *"**Terms and Conditions of the E-auction are as under:***
> *E-Auction is being held on **"AS IS WHERE IS"** and **"AS IS WHAT IS BASIS"** and will be conducted "On Line". The auction will be conducted through the bank's approved service provider M/s. C-1 India Private Limited, Gurgaon at the web portal https://www.bankerauctions.com E-Auction Tender Document containing online e-auction bid form, Declaration, General terms and Conditions of online auction sale are available at portal site.*
>
> *To the best of knowledge and information of the Authorized Officer, there is no encumbrance on the properties. However, the intending bidders should make their own independent inquiries regarding the encumbrances, title of properties put on auction and claims/rights/ dues affecting the property, prior to submitting their bid. The e-Auction advertisement does not constitute and will not be deemed to constitute any commitment or any representation of the bank. The property is being sold with all the existing and future encumbrances whether known or unknown to the bank. The Authorized Officer/Secured Creditor shall not be responsible in any way of any third party claims/rights/dues.*
>
> *The sale shall be subject to rules conditions prescribed under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.*
> *The other terms and conditions of the e-auction are published in the following websites:*
>
> *1.https://www.sbi.co.in, 2.https://www.bankeauctions.com, 3.http://tenders.gov.in.*
>
> ***STATUTORY 30 DAYS SALE NOTICE UNDER THE SARFAESI ACT, 2002***
>
> *The Borrower/guarantors are hereby notified to pay the outstanding dues as mentioned above along with up-to-date interest and ancillary expenses before the date of the E-Auction falling which the property will be auctioned and balance dues, if any, will be recovered with interest and costs."*

6. The appellant-writ petitioner deposited a demand draft of a sum of Rs.7,43,50,000/-, as was required and laid down in the terms and conditions of e-auction. The e-auction was conducted on 19.08.2016, wherein the appellant-writ petitioner was a successful bidder. Whereafter, the appellant-writ petitioner transferred an amount of Rs.11,15,25,058/- on 20.08.2016, as the remaining of total 25% of the bid amount.

7. At that stage, a group company of respondent No.3, namely Samtel Color Ltd., preferred a writ petition, i.e. S.B. Civil Writ Petition No.11302/2016 before this Court challenging the auction

based on the tenancy rights of some portion of the land and contended that the auction notice was wrongfully covering its plant & machinery, which were not mortgaged and for which no mortgage has been created in favour of the respondent-Bank.

8. An interim order was passed on 26.08.2016 directing to maintain statu-quo qua 6.2 hectares of land purportedly subleased by Samtel Glass Ltd. to Samtel Color Ltd. Further, the bank was left free to proceed with sale of the remainder of the property mortgaged in respect of which proceedings have been initiated under the SARFAESI Act. The interim order, later on, merged with the final order passed in the writ petition on 17.10.2016, whereby the concerned company was allowed to file appeal under the new amended Section 17 of the SARFAESI Act, 2002, which had come into force from 01.09.2016 with further direction that the interim protection granted would continue.

9. On 03.11.2016, the DRT-II, Delhi, on the appeal preferred by the concerned company, passed following order:

> *"Heard both sides. It is submitted by the Sr. counsel for the security applicant that sale notice cannot be issued by the respondent no. 1 bank violating the provisions of Rule 8 of the Security Interest Act and the area in the sale notification includes premises of Samtel Color Ltd. which included plant and machinery, however, there is no charge in respect of respondent no.1 as such the respondent no.1 bank cannot proceed against the sale of the plant and machinery and land of the Samtel Color Ltd. measuring 6.20 hectares.*
>
> *On the other hand the counsel for the respondent no.1 bank submitted that the lease was determined in the month of January 2013 and SBI is not contemplating the sale of said plant and machinery in the building of Samtel Color Ltd. In view of this assertion of SBI permission is granted to the SBI to proceed with the auction in respect of other properties, except 6.20 hectares covered by Samtel Color Ltd. including the building, plant and machinery as a temporary measure till the disposal of this SA. In the meanwhile the respondents are directed to file reply expeditiously within two weeks and thereafter the security applicant is directed to file his rejoinder. if any. In the meanwhile status quo in respect of 6.20 hectares be maintained.*
>
> *For reply and hearing posted to 21.11.2016."*

10. However, the SBI thereafter, did not proceed with the auction and conveyed vide letter dated 26.09.2017 to the appellant-writ petitioner informing that as the sale could not be confirmed and there being several litigation relating to the sale of the property, the OTS Scheme was offered and the Bank had settled its dues with regard to the other major lender and the appellant-writ petitioner was asked to communicate with the Canara Bank.

11. The appellant-writ petitioner, however, challenged the respondent bank entering into One Time Settlement, as the property had already been put to auction and the appellant-writ petitioner had deposited 25% of the bid amount and on other various grounds, by filing S.B. Civil Writ Petition No.22939/2017 before the learned Single Judge.

12. The respondent No.3 had put in appearance as caveator before the learned Single Judge.

13. The learned Senior Counsel appearing on behalf of the appellant-writ petitioner submitted that the sale stood confirmed as 25% of the amount had already been deposited and, therefore, a right had been created in favour of the auction purchaser. The appellant-writ petitioner also invoked the provisions of Section 13(8) of the SARFAESI Act, as amended after the auction had taken place. It was submitted that by e-mail dated 20.08.2016, the bank had confirmed the sale and, therefore, it had no right to enter into settlement, as the title of the property was passed on to the appellant-writ petitioner firm. Learned senior counsel has also relied on Rule 9 of the Security Interest (Enforcement) Rules,

2002 (hereinafter to be referred as the 'Rules of 2002'), which recognizes the right of confirmation of sale.

14. Learned Single Judge having considered the unamended provisions of Section 13(8) and amended provisions of Section 13(8) of the SARFAESI Act, without going into other facts of the case proceeded to hold that the purpose of clause (ii) of sub-section (8) of Section 13 is to allow the secured creditor to accept the amount where no further steps have been taken for transfer of lease agreement or sale. Learned Single Judge also considered Section 37 of the SARFAESI Act as well as the judgment of the Hon'ble Supreme Court passed in the case of **Mathew Varghese Vs. M. Amritha Kumar & Ors.**, reported in **(2014) 5 SCC 610** and held that a right of auction purchaser in the property would accrue as under:

> *"The right in the property can be claimed when registered sale deed is executed or there is a confirmation of sale with issuance of sale certificate. In the instant case, the sale certificate has not been issued by the respondent-Bank. An e-mail was shown to indicate communication for confirmation of sale.*
>
> *It is also a fact that for one or other reasons, the petitioner-firm has not paid entire amount but 25% of the value quoted by them before issuance of interim order of this court. In such circumstances, Rule 9 of the Rules of 2002 cannot have application because confirmation of sale can be on payment of entire amount. Taking into consideration the aforesaid, judgment of the Division Bench of this court in the case of Karwa Trading Company (supra) would not apply, rather, it was decided in set of facts applicable therein. Therein, borrower himself participated in the auction process and had given highest bid. Taking into consideration the aforesaid, I do not find that judgment in the case of Karwa Trading Company (supra) has application to the facts of this case.*
>
> *In view of the above, I am not inclined to set aside OTS entered between the parties or to quash the letter dated 26th September, 2017. The writ petition is, accordingly, dismissed. The respondent-Bank is, however, directed to refund the amount to the petitioner-firm along with interest @8% p.a. within a period of two months from today."*

15. Feeling aggrieved, the present appeal was preferred, wherein this Court on 26.02.2018, while admitting the appeal passed following order:

*"After taking into consideration the overall matter, we are of the opinion that the OTS has been entered after the auction is finalized. However, it has been contended that unless sale deed is executed, they have right to redeem the mortgage. In our considered opinion, unless that auction sale which has been declared by the bank is set aside by the competent court, the right of the mortgage has to be kept in abeyance and cannot be revived unilaterally. It has to be done only by the court proceedings which has not been done. If such a practice is allowed, the bank officer will act in a new fashion and now looking to the present scenario of the bank, it will not be appropriate to approve this practice. We deprecate such practice and inclined to stay the order.*

*The parties are directed to maintain status quo and we direct the appellant to deposit the amount within a week. He will deposit the amount with the bank and the same will be accepted by the bank. The amount deposited by the appellant will be kept in FDRs and the amount deposited by the respondents will also be kept in FDRs and the amount will be refunded with interest to whomsoever succeed.*

*The stay application stands disposed of.*

*The matter is fixed for final hearing on 9th April, 2018.*

*The application (8595/18) for taking additional documents on record shall be heard alongwith the main matter."*

16. The case again came up for final hearing on 18.02.2026, and this Court had passed the following order:

*"1. Before we examine the case on merits, we are of the view that the issue between the respective parties can be sorted out by way of mediation.*

*2. The Court ought to find out methods by which disputes can be resolved amicably. Mediation is one of the most effective methods for the said purpose.*

*3. We therefore, direct all the parties to present themselves for mediation with the respective officers of the bank. The loanee as well as the auction purchaser would all personally be present before the Mediation Authority.*

*4. Notice need not be issued for the said purpose and we fix the date as 18th March, 2026 for all the stakeholders. Representatives to present before the Mediation Authority. The concerned Secretary, Mediation Cell, Rajasthan Legal Services Authority, Jaipur shall appoint a trained Mediator, who would conduct the exercise of mediation. He may, for the purpose of arriving an amicable solution, conduct the mediation exercise more than once on the different dates.*

*5. The Registry is also directed to place all the relevant record before the Mediation Centre.*

*6. Learned Senior Counsel appearing for the Canara Bank who is party to this petition, submits that the status quo would not bind them from assigning the debts to another Company.*

*7. We find that such assigning would amount to interference with the status quo order. We therefore, restrain the Canara Bank from conducting the exercise till the next date when the case is listed before the Court after the mediation proceedings are over.*

*8. List this case after culmination of mediation proceedings along with report before the Court.*

*9. It is made clear that the status qua as directed earlier shall be maintained by all the parties."*

17. The matter again came up before this Court on 27.04.2026 and all the concerned debtors, banks as well as RIICO stated that their claims have already been satisfied amicably during the mediation. Learned counsel for the appellant-writ petitioner, however, wanted to address with regard to the issue as to whether an auction purchaser's rights would be taken away if after the auction and before the sale is confirmed, all amount, claimed by the respondent Bank, stands satisfied by the concerned loanee. The arguments were heard finally on 26.05.2026.

18. While the learned senior counsel for appellant-writ petitioner reiterated the submissions raised before the learned Single Judge, it would be apposite to quote the submissions made by him during the course of arguments referring to the laws as were cited and the same are also part of his written submissions, as under:

"***Submissions:***

*I. How Single Judge exceeded its jurisdiction:*

***i. Dismissal of Writ could only have upheld one OTS with SBI and transfer of Lead Bank in the consortium***

*That it is humbly submitted that the Appellant/Petitioner herein had challenged the communication issued by Respondent No. 1 whereby it was intimated that Respondent No. 1 had settled its dues with the borrower and that, being next in line under the consortium lending arrangement, Canara Bank (Respondent No. 4) would thereafter represent the consortium. Thus, even if the Writ Petition preferred by the Petitioner came to be dismissed, such dismissal could only have resulted in upheld the OTS with the SBI (R-1) and not cancel a successful auction in entirety.*

***ii. Respondents could not be granted relief on the claim of the Petitioner***

*Dismissal of Writ Petition could only have led to denial of the relief sought by the Petitioner, but could not have conferred any affirmative relief upon the Respondents which had neither been prayed for nor pleaded, thereby could not have declared the auction non est and grant of reversal of advance amount.*

***iii. No Settlement could take place without annulling the Auction***

*That once the auction has been conducted and the sale stands confirmed in terms of Rule 9(3) of the Rules of 2002, a vested right accrues in favour of the auction purchaser. In **Celir LLP v. Bafna Motors**, it has been held that once the auction notice is published in accordance with Section 13 of the SARFAESI Act, the borrower's right of redemption does not survive unless the auction is first held to be bad or illegal on the facts of the case. Therefore, prior to entering into any settlement with the borrower, the bank was required to have the auction annulled through an order of the competent Court, and only thereafter could any settlement have been validly acted upon. In the absence of the same, the bank has purportedly created simultaneous and competing rights in respect of the very same property, which is impermissible in law.*

***iv. SARFAESI is a retroactive law and amended law applies to the claims that are alive on the day of amendment.***

*That the amended provisions of the SARFAESI Act are applicable, the enactment being retroactive in operation insofar as, upon coming into force, it applied to subsisting and existing debts. Applying the same principle, and construing the legislative intent, the relevant law is required to be examined as on the date when the cause of action arose. In the present case, the cause of action arose on 26.09.2017, being the date of settlement, which was subsequent to the commencement of the amended provision. Accordingly, the amended Section 13(8) would govern the present controversy.*

***v. Entire dues had to be paid even under pre-amended law to seek redemption of property.***

*Arguendo, assuming without admitting that the pre-amended provision were to apply in the present case, even then the said provision mandates tender of the entire dues together with all costs, charges, and expenses incurred by the secured creditor. In the present matter, only the dues of one lender in the consortium, namely State Bank of India (Respondent No. 1), were purportedly settled, whereas the outstanding liabilities of the remaining consortium lenders continued to subsist, which were willing to recover there dues through Auction was also forgone. Therefore, it cannot be contended that the borrower had validly exercised or invoked the right of redemption.*

***Bharat Amratlal Kothari v. Dosukhan Samadkhan Sindhi, (2010) 1 SCC 234***

*"29. The approach of the High Court in granting relief not prayed for cannot be approved by this Court. Every petition under Article 226 of the Constitution must contain a relief clause. Whenever the petitioner is entitled to or is claiming more than one relief, he must pray for all the reliefs. Under the provisions of the Code of Civil Procedure, 1908, if the plaintiff omits, except with the leave of the court, to sue for any particular relief which he is entitled to get, he will not afterwards be allowed to sue in respect of the portion so omitted or relinquished.*

*30. Though the provisions of the Code are not made applicable to the proceedings under Article 226 of the Constitution, the general principles made in the Civil Procedure Code will apply even to writ petitions. It is, therefore, incumbent on the petitioner to claim all reliefs he seeks from the court. Normally, the court will grant only those reliefs specifically prayed for by the petitioner. **Though the court has very wide discretion in granting relief, the court, however, cannot, ignoring and keeping aside the norms and principles governing grant of relief, grant a relief not even prayed for by the petitioner.***

*31. In Krishna Priya Ganguly v. University of Lucknow, overlooking the rule relating to grant of admission to postgraduate course in Medical College, the High Court in the exercise of powers under Article 226 of the Constitution directed the Medical Council to grant provisional admission to the petitioner. This Court set aside the order passed by the High Court observing that: (SCC p. 319, para 26)*
*"26.....in his own petition in the High Court, the respondent had merely prayed for a writ directing the State or the college to consider his case for admission yet the High Court went a step further and straightway issued a writ of mandamus directing the college to admit him to the MS course and thus granted a relief to the respondent which he himself never prayed for and could not have prayed for."*

*32. Again, in Om Prakash v. Ram Kumar, this Court observed: (SCC p.445, para 4)*

*"4.....**A party cannot be granted a relief which is not claimed, if the circumstances of the case are such that the granting of such relief would result in serious prejudice to the interested party and deprive him of the valuable rights under the statute.**"*

*33. Though a High Court has power to mould reliefs to meet the requirements of each case, that does not mean that the draftsman of a writ petition should not apply his mind to the proper relief which should be asked for and throw the entire burden of it upon the court". In the said judgment, the Hon'ble Apex Court has observed that though provisions of CPC are not made applicable to the proceedings under Article 226 of the Constitution of India but the general principles made in the CPC will apply even to writ petitions. Hon'ble Apex Court also observed that the approach of High Court in granting relief not prayed cannot be approved by the Supreme Court. In the present case though the petitioner has prayed for permitting him to discharge the duties of peon pursuant to appointment order dated 01.02.2014, but there is no challenge to the appointment order of the appellant. This relief prayed for in the writ petition could only be granted after setting aside the appointment order of the appellant."*

***Bharati Vidyapeeth and Ors. Vs. Ulka Pradeep Adhav and Ors. MANU/MH/3286/2019***

*20. In the facts of the present case, it is evident that respondent Nos. 3 and 4 are the persons who can be construed to be aggrieved in law vis-a-vis the decision of the School Tribunal and not the school or its Headmaster/Headmistress. Merely filing affidavit by respondent No. 3 in Writ Petition No. 601 and 873 of 2019 supporting the case of the petitioners would not confer locus on the petitioners. **It is trite that a respondent cannot seek relief in the writ proceeding instituted by the petitioner. Since the challenge has not been made by the person aggrieved, court is not inclined to entertain the same.***

*II. That the impugned order fails on legal footing as the reliance placed by the Hon'ble Single Judge on the decision of the Hon'ble Supreme Court in the case of **Mathew Varghese vs. M. Amritha Kumar and Ors., AIR 2015 SC 50**, to hold that the borrowers has the right to redeem the secured assets at anytime before the issuance of the sales certificate by the secured creditor (Bank) is misconceived for the reason that the aforesaid judgment dealt with the pre-amended provision of sub-section 8 of section 13 and the legislature vide Enforcement of Security interest and Recovery Debt laws and Miscellaneous provisions (Amendment) Act, 2016 w.e.f 1 September 2016 has brought a significant change in the provision of Section 13 (8) to the effect of extinguishing the right of the borrower to redeem the secured assets on the date of publication of notice of public auction, which is a clear departure*

*from the earlier legal position which allowed the borrower to redeem the secured assets at any time before the date fixed for sale/transfer/assignment of such secured assets.*

*III. That the Public notice of Auction was issued on 11.07.2016, 30 days after that as per the Rule 9(1) on 19.08.2016 the e-Auction was conducted and the Appellant deposited the 25% of the sale price in compliance of Rule 9(4) of the Rules 2002. The contention of the bank that the payment was made next day therefore the sale was not confirmed is refuted by the amended Rule 9(4) which clarifies that 25% deposit is to be made immediately i.e. not later than next working day.*

***9(3)** On every sale of immovable property, the purchaser shall **immediately, i.e. on the same day or not later than*** next working day, as the case may be, pay a deposit of twenty five per cent of the amount of the sale price, which is inclusive of earnest money deposited, if any, to the authorized officer conducting the sale and in default of such deposit, the property shall be sold again;*

**This as an amendment brought into effect from 03.11.2016 and due to being clarificatory in nature is applicable from the inception of the provision.*

*3. Therefore, in terms of the applicable Rules, the sale confirmation in favour of the Appellant ought to have been effected on 20.08.2016. However, the email sent by Respondent Nos. 1 and 2 did not contain the requisite attachment, and such lapse on the part of the Respondents cannot be attributed to the Appellant so as to curtail or prejudice its accrued rights. IV. **Celir LLP vs. Bafna Motors** held:*
***Bank's Conduct***

***102**. The genesis of the entire case lies in the illegitimate conduct of the Bank in placing different concerns above the clear provisions of the law. First, there was failure on the part of the Bank to issue sale certificate in favour of the auction purchaser despite the fact that the entire payment of auction bid was made. Secondly, although the right of redemption clearly stood lapsed Under Section 13(8) of the SARFAESI Act and auction having taken place wherein full bid amount was received, yet the Bank proceeded to accept the offer of full payment of the Borrower which is clearly impermissible in law. Once the auction notice is published in accordance with Section 13(8) of the SARFAESI Act, then unless and until the auction is held to be bad and illegal in the facts of the case, the right of redemption of mortgage is not available to the borrower.*

***103.** It is an admitted fact that the entire bid amount was paid by the auction purchaser as observed at Para 10 of the Impugned Order. Thus, the Bank was legally bound to issue the sale certificate as per the language of Rule 9(6) of the Rules of 2002. The said provision employs the phrase "shall". Thus, it is an instance of mandatory provision. There is nothing more in the realm of law that the auction purchaser can do once he has made the entire payment to the Bank. The fact that the Respondent Bank failed to issue the sale certificate raises serious concerns, when there was no stay by any competent forum. Even otherwise the general conduct of the Respondent Bank has not been satisfactory. Once the entire bid price is paid and there is no stay granted by any forum known to law, the Bank is duty bound to issue a valid Sale Certificate and hand over the physical possession of the secured asset to the auction purchaser.*

***105.** Bank is duty bound to follow the provisions of the law as any other litigant. It is to be noted that the Bank i.e., the secured creditor acts under the SARFAESI Act through the authorized officer who is appointed Under Section 13(2). Thus, the authorized*

*officer and the Bank cannot act in a manner so as to keep the sword hanging on the neck of the auction purchaser. The law treats everyone equally and that includes the Bank and its officers. The said enactments were enacted for speedy recovery and for benefitting the public at large and does not give any license to the Bank officers to act de hors the scheme of the law or the binding verdicts.*

***Sanctity of Auction***

*91. Thus, what is discernible from above is that, it is the duty of the courts to zealously protect the sanctity of any auction conducted. The courts ought to be loath in interfering with auctions, otherwise it would frustrate the very object and purpose behind auctions and deter public confidence and participation in the same.*

*92. Any other interpretation of the amended Section 13(8) will lead to a situation where multiple redemption offers would be encouraged by a mischievous borrower, the members of the public would be dissuaded and discouraged from in participating in the auction process and the overall sanctity of the auction process would be frustrated thereby defeating the very purpose of the SARFAESI Act. Thus, it is in the larger public interest to maintain the sanctity of the auction process under the SARFAESI Act. 93. In view of the aforesaid discussion, we hold that as per the amended Section 13(8) of the SARFAESI Act, once the borrower fails to tender the entire amount of dues with all cost & charges to the secured creditor before the publication of auction notice, his right of redemption of mortgage shall stand extinguished/waived on the date of publication of the auction notice in the newspaper in accordance with Rule 8 of the Rules of 2002.*

*V. That the amended Section 13(8), as substituted by the Amendment Act of 2016 with effect from 01.09.2016, is reproduced hereinbelow:*

***13. Enforcement of security interest.-***

*(8) Where the amount of dues of the secured creditor together with all costs, charges and expenses incurred by him is tendered to the secured creditor at any time before the date of publication of notice for public auction or inviting quotations or tender from public or private treaty for transfer by way of lease, assignment or sale of the secured assets,-*

*(i) the secured assets shall not be transferred by way of lease assignment or sale by the secured creditor; and*

*(ii) in case, any step has been taken by the secured creditor for transfer by way of lease or assignment or sale of the assets before tendering of such amount under this sub-section, no further step shall be taken by such secured creditor for transfer by way of lease or assignment or sale of such secured assets]*

***VI. Applicability of the Pre-amended or Post-amended Provision:***

*i. That on 03.09.2016 the Appellant sent an email seeking instructions for the further payment of the remaining amount, but there was no response given from the side of Respondent.*

*ii. That the Respondent No. 1 independently settled its individual share of debt with Respondent No.3 and informed the Appellant vide letter dated 26.09.2017.*

*iii. Thereby the settlement took place after the amendment came into force, thereby even if the auction notice and the auction conducted prior to the Amendment but the right of redemption of*

*the R-3 had already extinguished in light of the amended provision.*

*iv. That on the date of 26.09.2017 also the entire debt was not settled as the debts of other lenders were still existing to be paid, thereby as per section 13(8) the requirement of payment of entire debt including cost incurred and charges was not met.*

*V. The recent judgment in* ***M. Rajendran & Ors. v. M/s KPK Oils and Proteins India Pvt. Ltd. & Ors.*** *has explained the issue concerning the* ***retroactive/retrospective*** *applicability of the amended provision, the aforesaid judgment categorically held as follows:*

*188. We may summarize the principles on retrospective application of legislations as under: -*

*(i) Presumption against retrospectivity is not applicable to enactments which merely affect procedure or change the forum or are declaratory;*

*(ii) Retroactive/retrospective operation can be implicit in a provision construed in the context where it occurs;*

*(iii) Given the context, a provision can be held to apply to the cause of action after such provision comes into force, even though the claim on which the action may be based may be of an anterior date; and*

*(iv) A remedial statute applies to pending proceedings and such application may not be taken to be retrospective if application is to be in future with reference to a pending cause of action;*

*(v) SARFAESI Act is a remedial statute intended to deal with problem of pre-existing loan transactions which need speedy recovery."*

*vi. The delay occasioned on the part of the Respondents in confirming the sale and issuing the sale certificate cannot be attributed to the Appellant so as to defeat or curtail the rights accrued in its favour.*

*VII.* ***No OTS in Consortium Lending:***

*i. State Bank of India, being the lead bank of the consortium and having conducted the auction on behalf of all the lending institutions, could not have independently proceeded to settle only its own dues under an individual OTS scheme. Had there been a composite OTS settlement on behalf of the entire consortium, the matter would have stood on a different footing.*

*ii. Secondly, under a One Time Settlement (OTS), the entire amount due together with all costs, charges, and expenses incurred, is ordinarily not paid; rather, a reduced amount is accepted in full and final settlement. Such a course runs contrary to the mandate and sanctity of Section 13(8) of the SARFAESI Act.*

***VIII. Dissuade genuine purchasers from participating in future auctions***

*Such actions on the part of the banks undermine the sanctity and credibility of the auction process and are likely to dissuade genuine purchasers from participating in future auctions conducted under the SARFAESI Act.-*

***Celir LLP vs. Bafna Motors (Mumbai) Pvt. Ltd. and Ors.*** *(21.09.2023-SC)*

***86.*** *Thus, what is discernible from above is that, it is the duty of*

*the courts to zealously protect the sanctity of any auction conducted. The courts ought to be loath in interfering with auctions, otherwise it would frustrate the very object and purpose behind auctions and deter public confidence and participation in the same.*

***87.*** *Any other interpretation of the amended Section 13(8) will lead to a situation where multiple redemption offers would be encouraged by a mischievous borrower, the members of the public would be dissuaded and discouraged from in participating in the auction process and the overall sanctity of the auction process would be frustrated thereby defeating the very purpose of the SARFAESI Act. Thus, it is in the larger public interest to maintain the sanctity of the auction process under the SARFAESI Act.*

***88.*** *In view of the aforesaid discussion, we hold that as per the amended Section 13(8) of the SARFAESI Act, once the borrower fails to tender the entire amount of dues with all cost & charges to the secured creditor before the publication of auction notice, his right of redemption of mortgage shall stand extinguished/waived on the date of publication of the auction notice in the newspaper in accordance with Rule 8 of the Rules of 2002.*

*IX.* ***Right of Auction Purchaser:***

*Contempt Petition (C) Nos. 158-159 of 2024 In Civil Appeal Nos, 5542-5543 of 2023* ***Celir LLP vs. Sumati Prasad Bafna and Others... Respondenti(s).***

*220. The aforesaid may be looked at from one another angle. Even if the 9th auction were to be held illegal and bad in law by virtue of the aforesaid S.A. No. 45 of 2022, it would not mean that the auction purchaser would by virtue of such finding lose all its rights to the secured asset, even after having the sale confirmed in its favour. In this regard we may refer to the decision of this Court in Janak Raj v. Gurdilal Singh, AIR 1967 SC 608 wherein it was held that even if a decree pursuant to which auction was previously conducted was later set-aside, the successful auction purchaser's rights will remain unaffected and he would still be entitled to confirmation of sale in its favour. The relevant observations read as under:-*

*"27. For the reasons already given and the decisions noticed, it must be held that the appellant-auction purchaser was entitled to a confirmation of the sale notwithstanding the fact that after the holding of the sale the decree had been set aside. The policy of the Legislature seems to be that unless a stranger auction-purchaser is protected against the vicissitudes of the fortunes of the suit, sales in execution would not attract customers and it would be to the detriment of the interest of the borrower and the creditor alike if sales were allowed to be impugned merely because the decree was ultimately set aside or modified. The Code of Civil Procedure of 1908 makes ample provision for the protection of the interest of the judgment-debtor who feels that the decree ought not to have been passed against him. On the facts of this case, it is difficult to see why the judgment-debtor did not take resort to the provisions of O. XXI r. 89. The decree was for a small amount and he could have easily deposited the decretal amount besides 5 per cent of the purchase money and thus have the sale set aside. For reasons which are not known to us he did not do so."*

*X. That the conduct of the Respondent No.1 bank of not proceeding with the sale process even for the undisputed part of the property in question not stayed by the DRT Delhi and entering into OTS with the Respondent No.3 belatedly without disclosing the terms of the settlement and without Appellant's consent on the face of it is malafide and smacks of collusion with Respondent No. 3 which warrants independent investigation.*

*XI. That the Respondent No. 3 cannot be permitted to derive the benefit out of the interim order granted by the DRT Delhi contrary to the principle of "actus Curiae neminem gravabi" as per which no person can derive any benefit from mere pendency of a case before court of law. It is submitted that the Respondent No.3 should not be allowed to take undue advantage of the delay caused on account of pending litigation.*
*XII. That in addition to the aforesaid, even if unamended provision is taken into consideration, same cannot be misconstrued and misused to provide indefinite time to the borrower to redeem its debt more so when the Appellant is already adversely affected by the litigation took place due to the alleged lapse on the part of the Respondent No. 1 where Hon'ble Debt Recovery Tribunal, Delhi has stayed the sale of part of the auctioned land. The said litigation is being bona fidely contested by the Appellant as well and thus it becomes highly unfair and arbitrary on the part of Respondent No. I to settle the dues under OTS scheme at this belated stage.*

*XIII. Sanjay Sharma versus Kotak Mahindra Bank Ltd. & Ors. 2024 SCC OnLine SC 4589*

***11**. Being aggrieved by the above order dated 30.08.2012, the appellant approached the Appellate Tribunal and filed Appeal No. 368 of 2012. By order dated 03.09.2014, the Appellate Tribunal allowed the appeal preferred by the appellant and set aside the order dated 30.08.2012. Thereby, the auction sale was restored. The Appellate Tribunal observed that respondent No.2 cannot be given an unfettered right to deposit the amount at any time according to his convenience. The Appellate Tribunal further observed that there are serious disputes regarding the title of respondent No.2 to be a subsequent purchaser of the secured asset.*

***26**. In the circumstances, we find that the Appellate Tribunal was justified in holding in favour of the appellant herein by order dated 03.09.2024 by setting aside the order dated 30.08.2012 passed by the DRT. The High Court has reversed the said orders and consequently, the appellant has been directed to receive the amounts deposited by him as the sale certificate dated 27.12.2010 has been set aside on the basis that the auction conducted itself was not in accordance with law. The High Court, in our view, was not justified in holding so.*

***31.** We also take note of the fact that respondent No.1 has conducted the auction in terms of the provisions of the SARFESI Act. When the original owner/borrower Champa Bhen Kundia failed to repay the loan, respondent No.1 issued a notice under Section 13 of the SARFESI Act on 28.10.2006. Thereafter, physical possession of the secured asset was taken over and a Receiver was appointed in terms of Section 14 of the SARFESI Act on 06.07.2007. Thereafter, a notice was issued regarding the public auction of the basement being the secured asset as per Section 13 of the Act on 20.11.2010. The appellant herein participated in the said auction and was declared the highest bidder. Ultimately, respondent No.1 also issued a sale certificate in favour of the appellant on 27.12.2010. Thus, the auction was in due compliance with the statutory requirements and constituted a valid sale.*

***32.** No doubt, objections were raised by respondent No.2 in respect of the said public auction as well as in the issuance of a sale certificate to the appellant. The counsel for respondent No.2 vehemently argued that respondent No.2 has to have the right of redemption of the property on payment of the dues. However, this right is not unfettered and there is a statutory limitation prescribed to it. As per the unamended Section 13(8) of the SARFAESI Act, the right of the borrower to redeem the secured asset was available till the sale or transfer of such secured asset.*

*Subsequent to the amendment in 2016, the right of redemption available to the borrower would be available only till the date of publication of the notice under Rule 9(1) of the Security Interest (Enforcement) Rules, 2002. The material on record shows that ample opportunities were given to respondent No.2 to avail the said right on redemption vide orders dated 23.11.2007, 08.09.2009 and 30.08.2012 passed by the DRT. However, respondent No.2 failed to make use of the said opportunities provided to him.*

***34.*** *Consequently, the impugned order of the High Court is set aside. The order of the Appellate Tribunal dated 03.09.2014 is restored and consequently, the order dated 30.08.2012 passed by the DRT is set aside. Respondent No.1 shall take steps to hand over possession of the scheduled premises to the appellant herein. We also reserve liberty to the appellant herein to take possession in accordance with law by making a suitable application before the DRT or the High Court, as the case may be, for the purpose of collecting the keys of the scheduled premises that have been deposited by respondent No.2.*

***IDBI Bank Ltd. vs. Ramswaroop Daliya and Others*** *2024 SCC OnLine SC 2878*

*18. The correspondence on record clearly reveals that the respondents were always ready and willing to deposit the balance auction amount of Rs. 1,06,50,000/- and had rather submitted a bank draft dated 15.10.2022 of the said amount and had requested for the issuance of the sale certificate and possession of the auction property. The said correspondence clearly establishes the bona fide of the respondents and it was only the appellant-Bank who had avoided the issuance of the sale certificate. There is no material on record to justify non-acceptance of the balance sale consideration from the respondents within 15 days of the confirmation of the sale and whatever pleas have been taken by the appellant-Bank to avoid acceptance are all subsequent and are not very material.*

*19. In these facts and circumstances, reason for the non-issuance of the sale certificate is solely attributable to the appellant-Bank and that there were no latches, negligence or default on part of the respondents in offering to deposit the balance auction amount. Since there is no default on their part, non-deposit of the said amount within the stipulated period would not be fatal within the meaning of sub-Rules (4) and (5) of Rule 9 of the Rules.*

*20. It is pertinent to mention here that the cancellation of the auction sale vide communication dated 24.12.2019 is purely unilateral in nature without any notice or opportunity of hearing to the respondents. The said cancellation as such is per se in violation of the principles of natural justice and is illegal.*

*21. Learned counsel for the appellant-Bank, relying upon Union Bank of India v. Rajat Infrastructure Private Limited, had submitted that the statutory period prescribed under Rule 9(4) is not liable to be extended by this Court even in exercise of powers under Article 142 of the Constitution of India. In the said case, this Court accepted that though the plenary powers of the Supreme Court under Article 142 of the Constitution are inherent which are of very wide amplitude but the said power cannot be used to supplement the substantive law by ignoring the express statutory provision. The aforesaid authority cited on behalf of the appellant-Bank is not of any help to it in this case as we are not providing for any new period of limitation for depositing the balance sale consideration or extending the time period provided under the Rules. We are simply holding that the period to deposit the balance sale consideration, as provided under the Rules, is not sacrosanct and is extendable with the consent in writing of the parties and that Rule 9(4) will only come into play when there is*

*default on part of the party i.e. the auction purchaser to deposit the amount and will not apply where there is no default or that the default, if any, lies upon the auctioneer i.e. appellant-Bank in the case at hand.*

*22. Accordingly, we are of the considered opinion that the High Court has not committed any error of law in the peculiar facts and circumstances of the case in holding that the appellant-Bank manifestly erred in cancelling the auction sale dated 10.04.2018 and in directing to issue sale certificate/register the sale deed in favour of the respondents after getting the balance auction amount deposited within a period of four weeks.*

***Atul Anand versus Punjab National Bank & Ors. [MP High Court** – MANU/MP/0141/2026*
*Review Petition No. 54 of 2026]*

*3. We have perused the record and the facts of the case as described in paragraph 15 and 16 of the order dated 08.12.2025, which reads as under. "15. After considering the all judgement the legal position is that after amendment of the SARFAESI Act, in 2002, the amended provisions of Section 13(8) of the SARFAESI Act, make it clear that the right of the borrower to redeem the secured asset stands extinguished thereunder on the very date of publication of the notice for public auction under Rule 9(1) of the Rules of 2002. In effect, the right of redemption available to the borrower under the present statutory regime is drastically curtailed and would be available only till the date of publication of the notice under Rule 9(1) of the Rules of 2002 and not till the completion of the sale or transfer of the secured asset in favour of the auction purchaser.*

*"15 In present Case the notice under Rule 9(1) of the Rules of 2002 issued on 20/04/09 and auction was bid for 27.15Lacs against the due amount 40,95,384 on the date 27/4/2009. SA application no 70/09 was filed on 6/5/09 Before filing the SA application auction proceedings was completed. Therefore, interim order dated 22/5/09 passed by DRT, Jabalpur has no effect to quashed the auction on the date 27/4/2009. DRT order has only precluded the bank to issue sale certificate nothing more. It is very well clear the auction proceedings is completed on the dated when the bid was accepted, before accepting the bid borrower has a right to redeem the mortgage property not till the completion of the sale or transfer of the secured asset in favour of the auction purchaser.*

*16. After auction proceedings of mortgage property is completed, bank has no right to accepted one time settlement with the permission of the DRT, Jabapur because right to auction purchaser has been created on the date when the auction was completed. Borrower has not challenged the order of DART Allahabad only support of bank appeal, Therefore, no irregularity found in the order of DRAT Allahabad."*

***IN VIEW OF THE AFORESAID, IT IS PRAYED THAT***

*i. The present appeal be allowed, and the impugned order dated 19.01.2017 passed by the Hon'ble Single Judge may kindly be modified or set aside.*

*ii. Issue an appropriate writ/order/ direction that any kind of settlement if entered by the Respondent No. 1-2 & 5-7 with the Respondent No. 3 in relation to the auctioned property shall be void and nullity in eyes of law.*

*iii. Grant any other relief as the Hon'ble Court may deem fit and proper under the present facts and circumstances of the case.*"

19. The respondent SBI had filed its reply in the appeal and submitted that the auction had been conducted for land ad-measuring 27.79 hectares, however, later on, it was revealed that the auction could not have been done relating to 6.2 hectares of land, as noted in the foregoing paras and a litigation relating to the same continued, as noticed above. Ultimately, the DRT allowed the bank to conduct a fresh auction, however, before conducting a fresh auction, the SBI considering the long pendency of litigation, proceeded to take recourse to the OTS Scheme introduced on 01.09.2017 as a non-discretionary and non-discriminatory scheme. The OTS Scheme, which was to be applied to Non-Performing Assets and Advance Under Collection Accounts having outstanding of more than Rs.20,00,000/- and up to Rs.25,00,00,000/- as on 30.03.2017 in the field of manufacturing, trade, service and agriculture sector. Condition for implementation of OTS was that the account was to be classified as NPA on or before 31.03.2016 and the Scheme covered the following:

(a) Cases pending before the Courts/DRT;

(b) Cases where bank had issued notices under Section 13(2) or taken action under Section 13(4) of the Act of 2002;

(c) Accounts under Consortium and multiple banking arrangement;

(d) Written off Accounts;

(e) Where borrower was declared willful defaulter.

20. Considering the eligibility and the willingness of respondent No.3, who agreed to settle the dues, the SBI accepted the scheme and closed the account and referred the remaining claim to

Canara Bank. A letter in this regard was sent by them to the appellant-writ petitioner.

21. It is submitted by the learned counsel for the SBI that the OTS Scheme, 2017 is under challenge before the Court. Learned counsel has, however, submitted that the appellant-writ petitioner is building up its case on false premises alleging that the sale had been confirmed and, therefore, no settlement could have been entered into, whereas it is submitted that the sale had never been confirmed. In fact, he has pointed out that on the day of e-auction, 25% of the sale amount was required to be deposited, but the auction purchaser did not have even 25% of the amount in his bank account as on 19.08.2016 and in fact, the remaining amount of 15% has been deposited on 20.08.2016, which is contrary to the conditions of auction. Since appellant-writ petitioner failed to deposit the balance amount on 19.08.2016, the letter as mentioned in the e-mail was put on hold, which was to be enclosed with the e-mail dated 19.08.2016 titled "sale confirmation advice".

22. It has been further submitted that there was no occasion for the bank to confirm the sale without receiving the payment as the sale was never completed in favour of the appellant-writ petitioner. It is stated that "as 100% bid amount was not received by the bank, no Sale Certificate has been issued till date and unless and until Sale Certificate is issued, the appellant does not have any right to enforce the sale and to claim transfer of property in its favour".

23. Learned counsel has also invited our attention to Rule 9 of the Rules of 2002 and the provisions of Section 54 of the Transfer

of Property Act, 1882 (for short, the Act of 1882) to submit that no sale deed was executed and registered, and therefore, the entire sale consideration having not been paid by the appellant-writ petitioner, the auction cannot be said to have been confirmed.

24. It has been further stated that Bank of Baroda entered into an OTS on one to one basis and closed the account and the SBI has remitted the amount deposited by the auction purchaser, as per the interim order passed by the Division Bench, in an FDR. It is submitted that the appellant-writ petitioner has not incurred any financial loss as although, earlier SBI maintained the FDR of bid amount @ 4.5%, the bank has returned the amount with interest @ 8% p.a., as directed by the learned Single Judge.

25. Learned counsel appearing for the respondent-Canara Bank has submitted that it was the only bank left with regard to its dues, while all other banks, namely, SBI, ICICI Bank, Bank of Baroda as well as RIICO had already entered into the settlement and their dues had also been satisfied.

26. Learned counsel further submits that a bank with the spirit of mediation proceedings reached to the conclusion that the amount be settled and accordingly, during mediation proceedings, the total amount along with interest amounting to Rs.34,00,00,000/-, has been received, which satisfies the claim of the bank.

27. Similarly, learned counsel appearing for the RIICO also submitted that their dues as against the respondent No.3 stand fully satisfied and there is no claim left.

28. We have considered the submissions.

29. It may be pointed out that during the course of arguments the SBI also handed over a copy of the “sale confirmation advice”

dated 19.08.2016, wherein the appellant-writ petitioner was advised to remit Rs.11,15,25,000/- immediately and balance amount of Rs.55,76,25,000/-, to be deposited within 15 days from the date of auction. The letter dated 19.08.2016 was put on hold and not dispatched due to non-deposit of 25% of the bid amount. The letter has been placed along with the writ petition.

30. This Court also notices that the SBI had placed on record the statement of accounts, as placed by the appellant-writ petitioner along with the writ petition, which reflects that as on 19.08.2016, the company had only Rs.20,800/- balance and was credited by transfer on 20.08.2016. Thereafter, various amounts from different accounts were deposited in the account of appellant-writ petitioner and then the appellant-writ petitioner transferred the amount of Rs.11,15,45,800/- to the account of SBI as the remaining amount on the same day, i.e. on 20.08.2016. Thus, as on 19.08.2016, the appellant-writ petitioner did not have the amount which was required under conditions of auction to be deposited on the date of auction itself and 25% amount was actually deposited on the next day. The remaining amount was also not deposited within 15 days to the bank and a letter had been sent by the appellant-writ petitioner asking the bank to take up the matter in the Court relating to the stay order passed in the case of Samtel Color Ltd. and proceed further with the completion of process of sale at least to that extent. It was also acknowledged in their letter dated 03.08.2016 that the process of sale had not been completed and that it is the banker who would have to defend the matter.

31. From the perusal of the orders passed from time to time and facts as noticed above, this Court is satisfied that the auction had not been concluded. Moreover, after the order passed by the DRT dated 03.11.2016, the auction of land conducted on 19.08.2016 of an area of 72.12 acres would be deemed to have been cancelled, as there is no bifurcation or demarcation of 6.2 hectares of land of Samtel Color Ltd. The order of the DRT dated 03.11.2016 specifically holds that the respondent bank cannot proceed against the sale of plant, machinery and land of Samtel Color Ltd. measuring 6.2 hectares. It is because of the said reason that the DRT directed SBI to proceed with auction in respect of other properties except 6.2 hectares. Therefore, it is apparent that the entire premise on which the present litigation is continuing is without any basis.

32. After the order passed on 03.11.2016, the SBI was required to issue a fresh process of auction relating to the land demarcating 6.2 hectares belonging to Samtel Color Ltd, which has not been done. The appellant-writ petitioner participated in the auction conducted by the Bank in respect of an entire parcel of land admeasuring 72.12 acres (27.79 hectares + 1.178 hectares), as is evident from Schedule “C” of the notice issued under Section 13(2) of the SARFAESI Act. In the present circumstances, it is not possible to accept the contention of the appellant-writ petitioner that the bid pertained only to a part of the property. The auction was conducted for the entire land measuring 72.12 acres situated at Village Naya Nohra, Tehsil Ladpura, District Kota, comprising Khasra Nos. 72, 73, 307/73, 70, 68, 69/301, 66/299, 93, 69, 66,

67, 71, 101, 62, 61, 72, 97/302, 97 and 99, together with the buildings, structures, plants and machinery standing thereon.

33. Law is very well settled. If an auction is conducted of a property mentioning the complete area and part of the said area is later on found to have been wrongly included, a fresh auction would have to be done with regard to the remaining property. No rights, therefore, accrue on the basis of earlier auction held on 19.08.2016. The claim of the appellant-writ petitioner on behalf of provisions of Section 13(8) of the SARFAESI Act also would not apply.

34. Section 13(8) of the SARFAESI Act, as amended, reads as under:

> *"**13. Enforcement of security interest-***
>
> *(1)xxxxxx*
> *(2)xxxxxx*
> *(3)xxxxxx*
> *(4)xxxxxx*
> *(5)xxxxxx*
> *(6)xxxxxx*
> *(7)xxxxxx*
>
> *(8) Where the amount of dues of the secured creditor together with all costs, charges and expenses incurred by him is tendered to the secured creditor at any time before the date of publication of notice for public auction or inviting quotations or tender from public or private treaty for transfer by way of lease, assignment or sale of the secured assets,-*
>
> > *(i) the secured assets shall not be transferred by way of lease assignment or sale by the secured creditor; and*
> >
> > *(ii) in case, any step has been taken by the secured creditor for transfer by way of lease or assignment or sale of the assets before tendering of such amount under this subsection, no further step shall be taken by such secured creditor for transfer by way of lease or assignment or sale of such secured assets."*

35. While it is settled law now that the provisions of Section 13(8) of the SARFAESI Act would have a retrospective effect in view of the law laid down by the Hon'ble Supreme Court in the case of **M. Rajendran and Others Vs. KPK Oils and Proteins**

**India Pvt. Ltd and Others**, reported in **(2025) INSC 1144**, wherein it was held as under:

> *"**185**. Thus, logically from the above, if the claim is alive on 01.09.16 when the Section 13(8) is amended and the notice for auction is issued after 01.09.16, then the amended section should apply otherwise an absurd situation would be created, that the Act which applied retroactively to "alive claims" prior to the Act coming into force on 2002, but the amendment in it like in Section 13(8) would apply prospectively. That would create absurd situations."*

36. It was again reiterated by the Hon'ble Supreme Court in the cases of **E. Muthurathinasabathy and Ors. Vs. Sri International and Ors., 2026 INSC 303**, and **Celir LLP v. Bafna Motors (Mumbai) (P) Ltd.,** reported in **(2024) 2 SCC 1**.

37. We find that the said judgments would apply only where the auction purchaser has deposited the entire amount in terms of the conditions of auction. We also further notice that in **E. Muthurathinasabathy** (supra), the Supreme Court applied the decision on the facts of the case.

38. In **E. Muthurathinasabathy** (supra), the amount had not been deposited by the auction bidders. The Hon'ble Supreme Court noticed as under:

> "**27**. At this juncture, we may deal with the decision of this Court in **Celir LLP v. Bafna Motors Pvt. Ltd** on which reliance has been placed by the appellants. The cited authority, in our considered opinion, does not advance the case of the appellants. In Bafna Motors Pvt. Ltd. (supra), the Court was concerned with a situation where the sale had attained statutory finality; the entire consideration had been deposited within the prescribed time frame, and the sale certificate had been issued and registered without any subsisting judicial interdiction operating upon the process. It was in that factual milieu, this Court held that interference at a belated stage would unsettle vested third-party rights. The relevant paragraphs may be extracted for convenience as follows:
>
> > "**103.** It is an admitted fact that the entire bid amount was paid by the auction-purchaser as observed at SCC OnLine Bom para 10 of the impugned order [Bafna Motors (Mumbai) (P) Ltd. v. Union Bank of India. Thus, the Bank was legally bound to issue the sale certificate as per the language of Rule 9(6) of the 2002 Rules. The said provision employs the phrase "shall". Thus, it is an instance of mandatory provision. There is nothing more

> in the realm of law that the auction-purchaser can do once he has made the entire payment to the Bank. The fact that the respondent Bank failed to issue the sale certificate raises serious concerns, when there was no stay by any competent forum. Even otherwise the general conduct of the respondent Bank has not been satisfactory. Once the entire bid price is paid and there is no stay granted by any forum known to law, the Bank is duty-bound to issue a valid sale certificate and hand over the physical possession of the secured asset to the auction-purchaser.
>
> ***
>
> **110.2.** The confirmation of sale by the Bank under Rule 9(2) of the 2002 Rules invests the successful auction-purchaser with a vested right to obtain a certificate of sale of the immovable property in the form given in Appendix V to the Rules i.e. in accordance with Rule 9(6) of the Security Interest (Enforcement) Rules, 2002.
>
> (emphasis ours)

> **28**. The present case stands on an entirely different footing. Here, the completion of sale itself was prorogued far beyond the period contemplated by Rule 9(4), not on account of any default attributable to the borrowers, but owing to subsisting judicial orders and procedural restraints. The very bedrock upon which finality was recognised in **Bafna Motors Pvt. Ltd.** (supra) is, thus, conspicuously absent in the present case. Precedents, it is trite, are authorities for what they actually adjudicate upon and not for what may logically ensue therefrom; applied in that circumscribed sense, **Bafna Motors Pvt. Ltd**. (supra) is distinguishable on facts as well as principle and, therefore, cannot be invoked to defeat the borrowers' subsisting right of redemption in the present case."

39. The present case is identical to that of **E. Muthurathinasabathy** (supra).

40. As noticed above, the auction bidder has not only defaulted in paying the 25% of the bid amount on the date of auction, but has not deposited a single penny thereafter. As regards the obligation of the auction purchaser to adhere to the timeline and conditions stipulated in the auction notice, it is well settled that compliance with the prescribed schedule for deposit of the bid amount is mandatory. The significance of strict compliance has recently been reiterated by the Hon'ble Supreme Court in ***M.R. Vasumathi v. The Authorized Officer & Ors.***, **2026 INSC 633**, wherein an auction sale was set aside despite having remained in existence for nearly sixteen years, on account of a delay of five

days in depositing the balance sale consideration. The Hon'ble Supreme Court has held as under:

> *"**36**. While it is trite that the rights of an auction purchaser and the sanctity of a confirmed sale ordinarily merit due protection, such protection is by no means absolute. It must yield where the very process engendering the sale is demonstrated to be legally infirm or to be incongruous with the statutory framework. The object of proceedings under the SARFAESI Act is not the mere culmination of a sale in a mechanical manner, but the lawful realisation of the secured asset through a process that is fair, transparent and strictly compliant with the prescribed rules. In the present case, the non-adherence to the timeline that the SARFAESI Rules contemplate constitutes a material irregularity going to the root of the matter. The mere factum that the sale stood confirmed cannot, therefore, foreclose judicial scrutiny."*

Moreover, the auction which took place on 19.08.2016 also would be deemed to have been cancelled, as the land area which was auctioned on 19.08.2016 has been reduced by the Court's order and directions for fresh auction were issued to the bankers.

41. In **Mathew Varghese** (supra), the Hon'ble Supreme Court has held as under:

> *"**38**. On a reading of the above paragraphs, we are able to discern the ratio to the effect that a mere conferment of power to sell without intervention of the court in the mortgage deed by itself will not deprive the mortgagor of his right to redemption, that the extinction of the right of redemption has to be subsequent to the deed conferring such power, that the right of redemption is not extinguished at the expiry of the period, that the equity of redemption is not extinguished by mere contract for sale and that the mortgagor's right to redeem will survive until there has been completion of sale by the mortgagee by a registered deed. The ratio is also to the effect that the power to sell should not be exercised unless and until notice in writing requiring payment of the principal money has been served on the mortgagor. The above proposition of law of course was laid down by this Court in Narandas Karsondas while construing Section 60 of the TP Act. But as rightly contended by Mr. Shyam Divan, we fail to note any distinction to be drawn while applying the abovesaid principles, even in respect of the sale of secured assets created by way of a secured interest in favour of the secured creditor under the provisions of the SARFAESI Act, read along with the relevant Rules. We say so, inasmuch as, we find that even while setting out the principles in respect of the redemption of a mortgage by applying Section 60 of the TP Act, this Court has envisaged the situation where such mortgage deed providing for resorting to the sale of the mortgage property without the intervention of the Court. Keeping the said*

*situation in mind, it was held that the right of redemption will not get extinguished merely at the expiry of the period mentioned in the mortgage deed. It was also stated that the equity of redemption is not extinguished by mere contract for sale and the most important and vital principle stated was that the mortgagor's right to redeem will survive until there has been completion of sale by the mortgagee by a registered deed. The completion of sale, it is stated, can be held to be so unless and until notice in writing requiring payment of the principal money has been served on the mortgagor. Therefore, it was held that until the sale is complete by registration of sale, the mortgagor does not lose the right of redemption. It was also made clear that it was erroneous to suggest that the mortgagee would be acting as the agent of the mortgagor in selling the property."*

42. We also notice that Section 37 of the SARFAESI Act specifically mentions as under:

> *"**37. Application of other laws not barred.-** The provisions of this Act or the rules made thereunder shall be in addition to, and not in derogation of, the Companies Act, 1956 (1 of 1956), the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) or any other law for the time being in force."*

43. In **Mathew Varghese** (supra), the Hon'ble Supreme Court has further observed as under:

> *"**45**. A close reading of Section 37 shows that the provisions of the SARFAESI Act or the Rules framed thereunder will be in addition to the provisions of the RDDB Act. Section 35 of the SARFAESI Act states that the provisions of the SARFAESI Act will have overriding effect notwithstanding anything inconsistent contained in any other law for the time being in force. Therefore, reading Sections 35 and 37 together, it will have to be held that in the event of any of the provisions of the RDDB Act not being inconsistent with the provisions of the SARFAESI Act, the application of both the Acts, namely, the SARFAESI Act and the RDDB Act, would be complementary to each other. In this context reliance can be placed upon the decision in Transcore v. Union of India. In para 64 it is stated as under after referring to section 37 of the SARFAESI Act:(SCC p.162)*
>
> > *"64. … According to American Jurisprudence, 2d, Vol. 25, p. 652, if in truth there is only one remedy, then the doctrine of election does not apply. In the present case, as stated above, the NPA Act is an additional remedy to the DRT Act. Together they constitute one remedy and, therefore, the doctrine of election does not apply. Even according to Snell's Principles of Equity (31st Edn., p. 119), the doctrine of election of remedies is applicable only when there are two or more co-existent remedies available to the litigants at the time of election which are repugnant and inconsistent. In any event, there is no repugnancy*

*nor inconsistency between the two remedies, therefore, the doctrine of election has no application."*

44. The view taken in **Mathew Varghese** (supra) was again reiterated by three Judges Bench of Hon'ble Supreme Court in the case of **S. Karthik and Others Vs. N. Subhash Chand Jain and Others**, reported in **(2022) 10 SCC 641** and it was held as under:

*"**115**. Even if viewed from another angle, the claim of the appellants is not sustainable. The two judges Bench of this Court in the case of Mathew Varghese (supra), has heavily relied on the judgment of the three judges Bench of this Court in Narandas Karsondas. It has been held by this Court in the case of Narandas Karsondas (supra), that the right of redemption, which is embodied in Section 60 of the Transfer of Property Act, is available to the mortgagor unless it has been extinguished by the act of parties. It has been held, that only on execution of the conveyance and registration of transfer of the mortgagor's interest by registered instrument, that the mortgagor's right of redemption will be extinguished."*

45. Thus, Section 60 of the Act of 1882 has been treated as a basic provision whereby the finality of extinction of rights of a mortgagor has been laid down. Section 60 of the Act of 1882 reads as under:-

*"**60. Right of mortgagor to redeem.—** At any time after the principal money has become [due], the mortgagor has a right, on payment or tender, at a proper time and place, of the mortgage-money, to require the mortgagee (a) to deliver [to the mortgagor the mortgage-deed and all documents relating to the mortgaged property which are in the possession or power of the mortgagee] (b) where the mortgagee is in possession of the mortgaged property, to deliver possession thereof to the mortgagor, and (c) at the cost of the mortgagor either to re-transfer the mortgaged property to him or to such third person as he may direct, or to execute and (where the mortgage has been effected by a registered instrument) to have registered an acknowledgement in writing that any right in derogation of his interest transferred to the mortgagee has been extinguished:*

*Provided that the right conferred by this section has not been extinguished by act of the parties or by [decree] of a Court.*

*The right conferred by this section is called a right to redeem and a suit to enforce it is called a suit for redemption.*

> *Nothing in this section shall be deemed to render invalid any provision to the effect that, if the time fixed for payment of the principal money has been allowed to pass or no such time has been fixed, the mortgagee shall be entitled to reasonable notice before payment or tender of such money.*
>
> ***Redemption of portion of mortgaged property.—*** *Nothing in this section shall entitle a person interested in a share only of the mortgaged property to redeem his own share only, on payment of a proportionate part of the amount remaining due on the mortgage, except [only] where a mortgagee, or, if there are more mortgagees than one, all such mortgagees, has or have acquired, in whole or in part, the share of a mortgagor."*

46. However, for the purpose of the present appeal, the issue is totally academic. The facts of the present case show that the appellant-writ petitioner has not come out with correct facts before this Court. The appellant-writ petitioner has neither deposited 25% of the bid amount within the time prescribed under the conditions of auction i.e. on the day auction was conducted, nor it deposited the remaining amount within 15 days, as required. It was taking advantage of the litigation initiated by Samtel Color Ltd. relating to their properties, which were included in the auction. Ultimately, the DRT passed a direction in favour of Samtel Color Ltd. holding that 6.2 hectares of land shall not be included for auction and directed the bank to conduct auction of the remaining land.

47. Thus, a fresh auction was required to be conducted after deleting 6.2 hectares of land from the total of 72.12 acres of land put to auction. No rights, thus, remain available to auction bidder whose auction itself would be deemed to have been cancelled.

48. The only aspect remains is with regard to refund of the amount deposited.

49. The learned Single Judge has already directed the same to be done accordingly. The bank has deposited the amount in FD, as per direction of this Court.

50. We are also satisfied that claims of all the stakeholders stood satisfied during mediation proceedings. We are of the firm view that a running company doing business ought not be put out of business and claims of Banks relating to the loans advanced for business ought to be first settled in terms of the provisions of the SARFAESI Act and also attempts should be made to settle the same through mediation before the DRTs.

51. We may notice that DRT, Jaipur has been conducting mediation amongst the borrowers and the banks and have been successful in getting several cases disposed of through mediation. In the present case too, while the appellant-writ petitioner may not be happy as it had participated in a bid, however, having already reached to the conclusion that no rights accrue to it, we appreciate the manner in which the mediation proceedings concluded in between the banks and the borrower.

52. In view of above, the present appeal fails and is, accordingly, dismissed with direction to release the amount deposited by the appellant-writ petitioner and kept in FDR along with interest, which had accrued to the said amount, within a period of 15 days.

53. All pending applications stand disposed of.

(BALJINDER SINGH SANDHU),J (SANJEEV PRAKASH SHARMA),ACTING CJ

GOVIND SHARMA/RAJAT