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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10888/2024, CM APPL. 44874/2024 & CM APPL. 44875/2024**

SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA

(SIDBI)

.....Petitioner

Through: Mr. Hemant Gupta, Mr. Shivang Jain,
Advocates with Mr. Nitin Panwar,
Legal Officer

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Rahul Sharma, CGSC with Ms.
Praneeta Sharma, Mr. Ayush Bhatt,
Mr. Harsh Rao, Ms. Sonika Rathore,
Advocates for UOI.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
07.08.2024

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1. The Petitioner, Small Industries Development Bank of India¹, assert their rights a secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002², over the immovable property situated at Khewat No. 475/442, Khatoni No. 552 MIN Rect No. 175, Killa No. 7(7-2), 8/1 MIN East (4-18), 13(8-0), 14(8-0), 17(8-0) in the revenue estate of village Jolly, Sonapat-Gohana Road, Tehsil

¹ "SIDBI"

² "SARFAESI Act"



Gohana, Sonapat, Haryana -121004³.

2. The Petitioner initiated proceedings under the SARFEASI Act against the Borrower, Chintpurni Foods Pvt. Ltd., the erstwhile owner of the subject property, consequent to their default in repayment of the loan amounting to INR 1475 Lakhs. Consequently, the Petitioner secured the physical possession of the subject property which was their secured asset.

3. The Petitioner's grievance arises from the work undertaken by Respondent No. 2 – National Highways Authority of India⁴ in terms of the 4-laning of Gohana - Sonipat section of NH-352A (PKG-II) from Km. 40.601 to Km. 78.837 in the State of Haryana. They contend that this construction activity has impeded access to the subject property, thereby adversely affecting their ability to exercise their rights as a secured creditor, particularly in terms of the recovery of pending dues through the sale of the secured asset.

4. The Petitioner highlights the complications arising from a recent auction where the subject property was initially sold for INR 6,28,00,000, with the auction purchaser depositing INR 1,57,00,000 as part of the transaction. However, upon inspecting the property, the purchaser requested a refund due to the construction of a flyover by Respondent No. 2, which obstructed the service lane providing the only access route to the property. This situation, as argued by the Petitioner, severely impacts the value and utility of the subject property, undermining their ability to recover the full amount owed by the erstwhile owner through the sale of this asset. The Petitioner asserts that the construction effectively isolates the property,

³ "subject property"

⁴ "NHAI"



making it inaccessible and, consequently, substantially devalues the same.

5. In such circumstances, the Petitioner seeks to mitigate the adverse effects of ongoing construction activities by Respondent No. 2, on their property rights. Specifically, the Petitioner requests this Court to:

- “a. Issue a writ of mandamus thereby directing the Respondents to grant clear ingress and egress for vehicular movement from the industrial land bearing no. Khewat No. 475/442, Khatoni No. 552 MIN Rect no. 175, Killa no. 7(7-2), 8/1 MIN East (4- 18), 13(8-0), 14(8-0), 17(8-0) in the Revenue Estate of Village Jolly, Sonapat- Gohana Road, Tehsil Gohana, Sonapat- 121004 to the under-construction Highway bearing number NH-352A through the service road in the State of Haryana;*
- b. To issue a writ of mandamus thereby directing the Respondents to stop the construction of the flyover on the service road of the Highway bearing number NH-352A which is right in front of the industrial land bearing no. Khewat No. 475/442, Khatoni No. 552 MIN Rect no. 175, Killa no. 7(7- 2), 8/1 MIN East (4-18), 13(8-0), 14(8-0), 17(8-0) in the Revenue Estate of Village Jolly, Sonapat- Gohana Road, Tehsil Gohana, Sonapat-121004, and*
- c. To pass any other / further order(s) which this Hon'ble Commission may deem fit and proper keeping in mind the facts and circumstances of the case, in the interest of justice.”*

6. The petition, as framed, invokes the writ jurisdiction of this Court under Article 226 of the Constitution of India, 1950, which is inappropriate given the nature of the grievances presented. The Petitioner's rights as a secured creditor under the SARFEASI Act entails specific legal framework for the recovery of dues, primarily through the sale of secured assets. The sale value of such assets, inherently subject to market conditions, does not provide a justifiable basis for judicial intervention regarding the construction activities of NHAI. The Petitioner's expectation for the Court to mandate alterations in public infrastructure projects to enhance the market value of private assets oversteps the intended scope of judicial review under Article 226 of the Constitution. The fact that the asset did not achieve the



anticipated sale price does not equate to a violation of legal rights that would warrant the extraordinary intervention of this Court.

7. Furthermore, issues concerning access to the subject property, such as the availability of alternative ingress or egress routes, fall within the administrative and technical purview of NHAI. Such matters are typically addressed through regulatory processes and urban planning considerations, taking into account traffic management, public safety, and urban development policies. This Court, in its writ jurisdiction, is not equipped to dictate the specific engineering or planning decisions of highway construction projects based on the commercial interests of individual parties. To do so would be to misconstrue the limits of judicial intervention in administrative matters, which are designed to balance a broader spectrum of public and private interests. Thus, any alteration to the NHAI's construction plans at the behest of the Petitioner would not only be inappropriate but could potentially set a precedent that disrupts the established legal framework governing public infrastructure development and property rights.

8. It has been brought to the attention of the Court that NHAI has responded to the Petitioner's concerns regarding access to the subject property. In their communication dated 4th January, 2024, NHAI has directed the Petitioner to the appropriate administrative procedure, specifically pointing to the need for approvals from the Highway Administrator as per the Guidelines Circular no. RW/NH-33032/01/2017-S&R(R) dated 26th June, 2020 issued by the Ministry of Road Transport and Highways. This indicates that there exists a prescribed administrative route through which the Petitioner may seek a resolution.



9. Consequently, if the Petitioner so desires, they can pursue the remedies outlined in the aforementioned circular for addressing concerns about access to the subject property.

10. Accordingly, the present writ petition is disposed of, along with pending application(s).

SANJEEV NARULA, J

AUGUST 7, 2024/ab