**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-20124-2023 (O&M)

Date of decision : 23.09.2025

Aditya Birla Finance Limited

…….Petitioner

Versus

District Magistrate, Panipat and others

...….Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY

Present: Mr. Ravi Gupta, Senior Advocate (arguing counsel), with
Mr. Aman Vasisth, Advocate, and
Mr. Siddharth Parashar, Advocate,
for the petitioner.

Mr. Deepak Balyan, Addl. Advocate General, Haryana.

Mr. Manish Gupta, Advocate (arguing counsel), and
Mr. Omkar Chauhan, Advocate,
for respondents No.4, 5, 7 and 8.

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SHEEL NAGU, CHIEF JUSTICE (Oral)

This petition has been filed by Aditya Birla Finance Limited, which is a financial institution, seeking execution of order dated 01.05.2023 (P-1) passed by District Magistrate, Panipat (respondent No.1), u/s 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, “SARFAESI Act”).

2. It is not disputed at the Bar that on the behest of petitioner, arbitral proceedings are pending, which is evident by order dated 08.09.2025 passed by the High Court of Delhi in a bunch of three petitions, including O.M.P. (I) (COMM.) 283/2025, titled "Aditya Birla Capital Ltd. Versus Sidhartha Educational and Welfare Society and others", whereby three petitions filed by petitioner – financial institution were disposed of by observing that there are disputes between the parties which need to be resolved through arbitration mechanism, and since the mandate of Sole Arbitrator, appointed earlier, had been terminated, a new Arbitrator needs to be appointed for adjudication of disputes between the rival parties.

2.1 The High Court of Delhi, while disposing of three petitions preferred by petitioner – financial institution, passed the following order :-

<u>O.M.P. (T) (COMM.) 62/2025</u>

1. to 12. xxx xxx xxx

13. For the said reasons, the petition is allowed, with the following directions :

i) Ms. Justice Shalinder Kaur (Retd. Judge Delhi High Court) (Mob. No. 9910384702) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.

ii) The arbitration will be held under the aegis and rules of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC').

iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.

iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the 1996 Act prior to entering into the reference.

v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and merits of the dispute of either of the parties and the fact that the respondents are MSME and disputes shall lie before the MSME council are left open for adjudication by the learned Arbitrator.

vi) The parties shall approach the learned Arbitrator within two weeks from today.

vii) The application of the respondent No.3 for deletion of its name from the array of parties shall be considered by the learned Arbitrator.

14. The present petition is disposed of accordingly.

O.M.P. (I) (COMM.) 283/2025

15. This is a petition filed under Section 9 of the 1996 Act seeking appointment of a receiver in the matter.

16. In view of the order given above in O.M.P. (T) (COMM.) 62/2025, since a new Arbitrator has been appointed in the matter, it is directed that the present petition shall be treated as an application under Section 17 of 1996 Act and shall be adjudicated by the new Arbitrator so appointed expeditiously and in any case not later than 4 weeks from today.

17. The present petition is disposed of accordingly.

O.M.P. (MISC.) (COMM.) 611/2025

18. This is a petition filed under Section 29A (5) of the 1996 Act seeking extension of the mandate of the Arbitral Tribunal by a further period of twelve months to make and publish the final Award.

19. It is stated that the delays in arbitral proceedings were on account of the petitioner and the respondent Nos. 1, 2, 4 and 5 trying to come to an amicable settlement.

20. It is stated that respondent Nos. 1, 2, 4 and 5 have no objection to the present petition being allowed.

21. Mr. Sharma, learned counsel for the respondent No.3 objects to the extension of the mandate of the Arbitral Tribunal.

22. I am satisfied that the parties were trying to settle disputes which consumed a considerable time and hence, sufficient cause has been shown for the delay. For the said reasons, the mandate of the new Arbitral Tribunal, as appointed by this Court today in O.M.P. (T) (COMM.) 62/2025, is extended by a period of twelve months from today, to make and publish the Award.

23. The present petition is disposed of accordingly.

24. The reply filed by the respondent No.3 is taken on record."

3. After having heard learned counsel for the rival parties, the only question that needs to be decided in present case is as to whether proceedings under SARFAESI Act and the Arbitration and Conciliation Act, 1996 (in short, "Act of 1996") are supplementary to each other or cannot run simultaneously.

3.1 The said issue is no more *res integra* in view of decision of the Apex Court rendered in ***M.D. Frozen Foods Exports Pvt. Ltd. and others Vs. Hero Fincorp Limited,*** reported in ***(2017) 16 SCC 741***, the relevant portions of which are re-produced below for ready reference and convenience :-

"Legal Issues:

11. A perusal of the impugned order and the submissions made by learned counsel for the parties have thrown up the following legal issues for determination:

A. Whether the arbitration proceedings initiated by the Respondent can be carried on along with the SARFAESI proceedings simultaneously?

B. xxx xxx xxx

C. xxx xxx xxx

12. to 27. xxx xxx xxx

28. These observations, thus, leave no manner of doubt and the issue is no more res integra, especially keeping in mind the provisions of Sections 35 and 37 of the SARFAESI Act, which read as under:

> ***35. The provisions of this Act to override other laws*** *– The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.*
>
> ………… ….
>
> ***"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.*

29. The aforesaid two Acts are, thus, complimentary to each other and it is not a case of election of remedy.

30. to 33. xxx xxx xxx

34. We are, thus, unequivocally of the view that the judgments of the Full Bench of the Orissa High Court in ***Sarthak Builders Pvt. Ltd. vs. Orissa Rural Development Corporation Limited*** *MANU/OR/0110/2014, the Full Bench of the Delhi High Court in* ***HDFC Bank Limited vs. Satpal***

__Singh Bakshi (supra)__ and the Division Bench of the Allahabad High Court in __Pradeep Kumar Gupta vs. State of U.P__ MANU/UP/0209/2009 : AIR 2010 All 3 lay down the correct proposition of law and the view expressed by the Andhra Pradesh High Court in __M/s. Deccan Chronicles Holdings Limited vs. Union of India__ MANU/AP/0060/2014 : AIR 2014 Andhra Pradesh 78 following the overruled decision of the Orissa High Court in __Subash Chandra Panda vs. State of Orissa__ MANU/OR/0069/2008 : AIR 2008 Ori 88 does not set forth the correct position in law. SARFAESI proceedings and arbitration proceedings, thus, can go hand in hand."

4. In view of the law laid down by Apex Court and scheme of SARFAESI Act, it is obvious that SARFAESI Act is not in contravention, but supplemental to other enactments.

4.1 Section 11 of SARFAESI Act, is relied upon by learned counsel for respondents No.4, 5, 7 and 8 – borrowers. It deals with resolution of disputes through arbitration in terms of the Act of 1996, which is being re-produced below for ready reference and convenience :-

__"11. Resolution of disputes —__ Where any dispute relating to securitisation or reconstruction or non-payment of any amount due including interest arises amongst any of the parties, namely, the bank or financial institution or asset reconstruction company or qualified buyer, such dispute shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996 (26 of 1996), as if the parties to the dispute have consented in writing for determination of such dispute by conciliation or arbitration and the provisions of that Act shall apply accordingly."

4.2 A bare perusal of Section 11 of SARFAESI Act reveals that there is no prohibition by the legislature in simultaneous proceedings for recovery under the SARFAESI Act, by invoking provisions under Chapter VI of SARFAESI Act, which is all the more evident by conjoint reading of Section 37 and 26E, which are re-produced below for ready reference and convenience :-

> ***"26E. Priority to secured creditors*** *— Notwithstanding anything contained in any other law for the time being in force, after the registration of security interest, the debts due to any secured creditor shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority.*
>
> *Explanation — For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code."*
>
> ***27.*** *to* ***36.*** *xxx xxx xxx*
>
> ***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.*

5. Consequently, objection raised by respondents No. 4, 5, 7 and 8 – borrowers does not find favour with this Court.

6. Accordingly, the petition stands allowed. Mandamus is issued to respondents No.2 and 3 to execute order dated 01.05.2023 (P-1) passed by District Magistrate, Panipat (respondent No.1), within a period of 30 days.

7. All the pending applications stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(SANJIV BERRY)
JUDGE

September 23, 2025
narotam

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No