



2025:DHC:10094-DB



\$~

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

%

Judgment reserved on: 27.10.2025
Judgment pronounced on: 18.11.2025

+ W.P.(C) 4302/2023, CM APPL. 16596/2023, CM APPL. 21240/2023, CM APPL. 37353/2023 and CM APPL. 52750/2024

M/S SARASWATI EDUVISION PVT LTDPetitioner

Through: Mr. Mohit Chaudhary, Mr.
Kunal Sachdeva, Ms.
Katyayani Vajpayee and Mr.
Naveen Sharma, Advs.

versus

PIRAMAL CAPITAL AND HOUSING FINANCE LIMITED

.....Respondent

Through: Mr. Mukul Bhimani, Adv. for
R-1
Mr. Vijay K. Gupta and Mr.
Mehul Gupta, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Writ Petition, filed under Article 226 of the **Constitution of India¹**, assails the **Order dated 31.03.2023²** passed

¹ Constitution

² Impugned Order



2025:DHC:10094-DB



by the learned **Debts Recovery Appellate Tribunal**³ in Misc. Appeal No. 50/2023, which had been preferred by the Petitioner challenging the Order dated 27.03.2023 passed by the learned **Debts Recovery Tribunal**⁴ in I.A. No. 545/2023 (application for urgent listing) and I.A. No. 546/2023 (application seeking restraint against the sale notice dated 10.03.2023) filed in TSA No. 798/2022.

2. By the said Order dated 27.03.2023, the learned DRT declined to restrain the operation of the sale notice dated 10.03.2023 issued by Respondent No. 1-Financial Institution in respect of the **mortgaged property bearing No. C-71/B and C-71/F, Khasra No. 583, Khewat No. 92, Khatoni No. 251, Shivaji Park, New Punjabi Bagh, New Delhi - 110026**⁵.

3. By way of the Impugned Order dated 31.03.2023, the learned DRAT declined to grant any interim relief in respect of the sale notice dated 10.03.2023; however, it directed the parties to complete their pleadings in the matter to proceed with the main Appeal.

BRIEF FACTS:

4. Shorn of unnecessary details, the facts germane to the institution and adjudication of the present Petition are as follows:

- (a) The Petitioner herein, along with the co-borrowers, *namely*, M/s Mother's Pride Education Personna Pvt. Ltd., Anil Kumar Banbah, M/s Presidium Educational Institute Pvt. Ltd., Raj Rani Gupta, Sudha Gupta, Paras Gupta, and Prateek Gupta,

³ DRAT

⁴ DRT

⁵ mortgaged property



2025:DHC:10094-DB



approached Respondent No. 1 seeking a Housing Loan Facility against the mortgaged property.

- (b) Pursuant thereto, Respondent No. 1 sanctioned a loan facility against the mortgaged property to the tune of Rs. 7,50,26,182/- *vide* sanction letter dated 31.03.2018, and the requisite loan and security documents were duly executed.
- (c) Subsequently, after availing of the loan facility, the Petitioner and its co-borrowers started defaulting in the payment of EMIs. Due to repeated defaults, their loan account was classified as a **Non Performing Asset**⁶ on 01.08.2019.
- (d) Consequent upon such classification, a Demand Notice dated 19.11.2019 was issued to the Petitioner and co-borrowers under Section 13(2) of the **Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002**⁷.
- (e) Upon the failure to comply with or respond to the said Demand Notice by the Petitioner and co-borrowers within the statutory period of 60 days, Respondent No. 1 issued a Possession Notice dated 25.06.2020, which was also published in the newspaper on 29.06.2020, under Section 13(4) of the SARFAESI Act.
- (f) As the Petitioner failed to honour the repayment obligations and allegedly did not respond to the Demand and Possession Notices, Respondent No. 1 approached the learned Chief Metropolitan Magistrate, West District, Tis Hazari Courts, Delhi, under Section 14 of the SARFAESI Act, and obtained an

⁶ NPA

⁷ SARFAESI Act



2025:DHC:10094-DB



Order dated 06.05.2022 authorising it to take possession of the mortgaged property.

- (g) On 24.05.2022, the Petitioner filed a Securitisation Application No. 258/2022 before the learned Debts Recovery Tribunal-I, New Delhi, challenging the SARFAESI actions of Respondent No. 1 on various legal and factual grounds.
- (h) Respondent No. 1 subsequently issued a Sale Notice dated 30.04.2022, fixing the date of auction as 31.05.2022. However, the learned DRT, by its Order dated 30.05.2022, stayed the proposed auction in the said Securitisation Application, subject to certain conditions. It was also observed that, upon failure of the Petitioner to comply with those conditions, Respondent No. 1 would be at liberty to proceed further in accordance with the law.
- (i) The Petitioner duly complied with the said conditions by depositing the requisite amount, and accordingly, the stay on the auction remained operative.
- (j) In October 2022, pursuant to the Gazette Notification dated 04.10.2022 issued by the Department of Financial Services, Ministry of Finance, and the communication dated 10.10.2022 issued by the learned DRAT, the territorial jurisdiction of learned DRTs was reorganised. Consequently, SA No. 258/2022 was transferred from learned DRT-I to learned DRT-II and was re-registered as TSA No. 798/2022.
- (k) In the interregnum, several developments took place. Respondent No. 1 made attempts to take possession of the mortgaged property, while the Petitioner, Respondent No. 1 and



2025:DHC:10094-DB



some other parties entered into mediation proceedings, which, however, did not yield any positive outcome.

- (l) Thereafter, Respondent No. 1 issued a Sale Notice dated 10.03.2023, scheduling the auction of the mortgaged property for 28.03.2023. Aggrieved thereby, the Petitioner filed I.A. No. 545/2023 (application for urgent listing) and I.A. No. 546/2023 (application seeking restraint against the sale notice dated 10.03.2023) in TSA No. 798/2022. The learned DRT, *vide* Order dated 27.03.2023, declined to restrain the operation of the sale notice dated 10.03.2023.
- (m) Aggrieved by the said Order dated 27.03.2023, the Petitioner preferred Misc. Appeal No. 50/2023 before the learned DRAT. By the Impugned Order dated 31.03.2023, the learned DRAT declined to grant interim relief in respect of the sale notice dated 10.03.2023, but directed the parties to complete their pleadings for the hearing of the main appeal.
- (n) Meanwhile, the auction of the mortgaged property was conducted, and a Sale Certificate was issued in favour of Respondent No. 2 by Respondent No. 1.
- (o) Following the refusal of interim relief by the learned DRAT, the Petitioner immediately instituted the present Writ Petition before this Court.
- (p) *Vide* Order dated 06.04.2023, this Court impleaded Respondent No. 2, the auction purchaser, as a party to the present Petition. Further, *vide* Orders dated 06.04.2023 and 13.04.2023, this Court granted interim protection to the Petitioner by directing



2025:DHC:10094-DB



status quo, thereby restraining Respondent No. 2 from taking possession of the mortgaged property.

- (q) On 27.10.2025, this Court heard the submissions of the parties and now proceeds to adjudicate the present Petition finally.

SUBMISSIONS OF THE PARTIES:

5. The learned counsel for the Petitioner would vehemently urge that the learned DRT and the learned DRAT have erred in rejecting the application and the appeal therefrom filed by the Petitioner seeking stay of operation of the auction of the mortgaged property pursuant to the sale notice dated 10.03.2023, as the said auction was conducted in blatant violation of the stay order passed by the learned DRT *vide* order dated 30.05.2022.

6. The learned counsel for the Petitioner would also urge that the auction, having already taken place, has been conducted in collusion between Respondent No. 1 and Respondent No. 2, and that the mortgaged property has been sold at a throwaway price, thereby causing grave prejudice and financial loss to the Petitioner.

7. The learned counsel for the Petitioner would submit that the sale notice dated 10.03.2023 was issued in contravention of the provisions of the SARFAESI Act and the Rules framed thereunder, and therefore, the entire sale process stands vitiated and is unsustainable in law.

8. The learned counsel for the Petitioner would further submit that the learned DRAT, while taking note of the Petitioner's inability to pay the amount of Rs. 5.50 crores on the same day as demanded by Respondent No. 1 and the Petitioner's non-participation in the public auction, erroneously declined to grant a stay on the auction. It would



be contended that the learned DRAT failed to appreciate that the sale itself was contrary to the subsisting stay order dated 30.05.2022 and that there were material irregularities in the auction process.

9. The learned counsel for the Petitioner would also raise serious objections to the valuation reports of the mortgaged property, contending that the same grossly undervalued the property and thereby facilitated its sale at an inadequate and unreasonably low price.

10. The learned counsel for the Petitioner would further raise several other contentions concerning the proceedings undertaken by Respondent No. 1 from the stage of declaring the loan account as NPA up to the auction conducted on 28.03.2023, asserting that the entire process was vitiated by procedural irregularities and non-compliance with the statutory mandate.

11. **Per contra**, the learned counsel for Respondent No. 1 would, at the very outset, submit that the present Writ Petition is not maintainable in law, as the proceedings before the learned DRAT challenging the sale notice dated 10.03.2023 and the consequential proceeding thereof, including the learned DRT's order dated 27.03.2023, are still pending adjudication. It would, therefore, be urged that since the appeal before the learned DRAT is *sub judice*, the Petitioner is already availing an efficacious statutory remedy, and hence, the present Writ Petition is liable to be dismissed on this ground alone.

12. The learned counsel for Respondent No. 1, while supporting the Impugned Order dated 31.03.2023 passed by the learned DRAT, would further submit that the stay order dated 30.05.2022 passed by



2025:DHC:10094-DB



the learned DRT, as vehemently relied upon by the Petitioner, pertained only to the earlier sale notice dated 30.04.2022. It would also be urged that the said stay was merely conditional in nature and stood vacated by virtue of the subsequent order dated 27.03.2023 passed by the learned DRT, thereby rendering the subsequent auction proceedings lawful, valid, and enforceable.

13. It would further be urged by the learned counsel for Respondent No. 1 that Respondent No. 1 was, in fact, willing to accept a sum of Rs. 5.50 crores as a full and final settlement, subject to payment of the same by the Petitioner on or before 31.03.2023; however, the Petitioner failed to comply with the said condition.

14. It would also be submitted by the learned counsel for Respondent No. 1 that, being constrained by the Petitioner's repeated defaults and non-compliance, Respondent No. 1 proceeded to conduct the auction in accordance with law, wherein Respondent No. 2 emerged as the successful purchaser. Therefore, it would be urged that there is no infirmity in either the Impugned Order dated 31.03.2023 passed by the learned DRAT or the order dated 27.03.2023 passed by the learned DRT, and consequently, the present Writ Petition deserves to be dismissed.

15. The learned counsel appearing for Respondent No. 2 would largely support and adopt the submissions advanced on behalf of Respondent No. 1.

ANALYSIS:

16. We have heard the learned counsel for the parties and, with their able assistance, carefully perused the paper book, including the orders passed by the learned DRAT and learned DRT.



17. At the very outset, we deem it appropriate to examine the maintainability and scope of the present Petition, which assails the interim order dated 31.03.2023 passed by the learned DRAT. The said order was passed in Misc. Appeal No. 50/2023 preferred by the Petitioner, challenging the order dated 27.03.2023 passed by the learned DRT in I.A. No. 545/2023 and I.A. No. 546/2023 filed in TSA No. 798/2022.

18. It is an undisputed fact that Respondent No. 1 issued the sale notice dated 10.03.2023 proposing the auction of the mortgaged property on 28.03.2023. The said sale notice was challenged before the learned DRT by way of I.A. Nos. 545/2023 and 546/2023 in TSA No. 798/2022. The learned DRT refused to grant any interim relief in the said applications, whereafter the Petitioner preferred Misc. Appeal No. 50/2023 before the learned DRAT seeking the following reliefs:

“6. RELIEFS SOUGHT:

In the facts & circumstances as mentioned in Para 5, it is respectfully prayed that Hon'ble Tribunal may graciously be pleased to pass the appropriate orders, inter alia as under:-

- a. To declare the impugned order dated 27-3-23 as contrary to facts and law and not sustainable;
- b. To declare sale notice dated 10-03-23 as null and void or alternatively, to order not to enforceable/not to give effect the same;
- c. To set aside all purported actions having been taken by, whatsoever, under and/or pursuant to the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with rules made thereunder, qua mortgaged property;
- d. To direct and/or order thereby restraining/debarring the Respondent and their agents, associates, and representatives and claimants from taking any further action with respect to the "mortgaged property" including sale notice;
- e. To adjudicate upon the legitimate dues payable by the Appellant;
- f. To award the costs of the present cause;



g. Pass such other or further order which this Hon'ble Tribunal may deem fit and proper in the facts & circumstances of the case.

19. In the said Appeal before the learned DRAT, the Petitioner also sought the following interim reliefs:

“7. INTERIM RELIEF: -

Till Pending final decision on the Appellant, the Appellant seeks the indulgence of this Hon'ble Tribunal as under: -

- a. To restrain the operation of the impugned order dated 27-3-23 and sale notice dated 10-3-23 and all proceedings thereunder;
- b. To restrain the Respondent from taking any further action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, with respect to the mortgaged property, till outcome of the present cause;
- c. To direct the Respondent to take the physical possession of the property in question;
- d. To restrain the Respondent from opening of bid of the alleged auction;
- e. To restrain the Respondent from acceptance of bid and to direct to keep the bid if any, in hold;
- f. To restrain the Respondent not to accept the remaining amount of auction price till the pendency of present cause.
- g. To restrain the Respondent not to confirm the sale of the mortgaged property hence forth;
- h. To restrain the Respondent not to take any further action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, with respect to the mortgaged property, till outcome of the present cause;
- i. The need for interim relief is necessary to save the parties from multiplicity of proceedings in the facts & circumstances and alleged claims of respondent.”

20. It is a matter of record that, *vide* the Impugned Order dated 31.03.2023, the learned DRAT declined to grant interim relief to the Petitioner but directed the parties to complete pleadings in the main appeal, that is, regarding the sale notice dated 10.03.2023 and all subsequent proceedings emanating therefrom, including the legality of the order dated 27.03.2023.



21. It is also a matter of fact that the Petitioner has preferred the present Writ Petition before this Court only against the Impugned Order dated 31.03.2023, whereas the main Appeal before the learned DRAT, challenging the sale notice dated 10.03.2023 and all consequential proceedings, remains pending adjudication. In the present Writ Petition, the Petitioner has sought the following reliefs:

- “a) Issue a writ of certiorari and/or any other appropriate writ order or direction to the Respondent, thereby setting aside /quashing the auction notice dated 10-03-23 and auction dated 28-3-23 and all subsequent proceedings viz opening of bid; acceptance of bid; issuance of bid confirmation letter, issuance of sale certificate if any, and/or to direct to resume physical possession of mortgaged property, if given; to take back original title deeds of mortgaged property if given and further to cancel all other proceedings if any and/or further to cancel the sale and transfer of mortgaged property by the auction purchaser, if any;
- b) To declare the impugned order dated 31-3-23 passed by Ld. DRAT New Delhi and impugned order dated 27-3-23 passed by Ld. DRT II New Delhi, as contrary to facts and law and not sustainable;
- c) To set aside all purported actions having been taken by the Respondent, whatsoever, under and/or pursuant to the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with rules made thereunder, qua mortgaged property;
- d) To set aside all purported actions having been taken by the auction purchaser, whatsoever, under and/or pursuant to issuance of sale certificate if any and to direct to restore all rights of the Petitioner as they have been in existence prior to illegal sale made by Respondent in connivance of auction purchaser,
- e) To direct and/or order thereby restrain/debar the Respondent and their agents, associates, and representatives and claimants from taking any further action with respect to the "mortgaged property";
- f) To adjudicate upon the legitimate dues payable by the Petitioner,
- g) To award the costs of the present cause;
- h) To Pass such other and further order(s) and grant such other reliefs in favour of the Petitioner and against the Respondent that this Hon'ble Court deems just and proper in the facts and circumstances of the case and in the interest of justice and equity.”

22. It is thus evident that the Petitioner has approached this Court solely against the refusal of interim relief by the learned DRAT. A



careful comparison of the grounds urged before the learned DRAT and those raised in the present Petition reveals that they are substantially identical. In fact, several of the issues agitated herein are already the subject matter of TSA No. 798/2022, which is presently pending adjudication before the learned DRT.

23. We are of the considered view that entertaining a writ petition against an interim order, while the main appeal is still pending before the learned DRAT, seeking reliefs pertaining to proceedings arising out of the sale notice dated 10.03.2023, would be wholly impermissible. Entertaining such a petition against an interim order under Article 226 of the Constitution would effectively undermine the statutory appellate framework established under the SARFAESI Act.

24. With regard to the general scope and limits of the High Court's power and discretion under Article 226 of the Constitution in relation to proceedings arising out of the learned DRT and learned DRAT, the Hon'ble Supreme Court, in *M.S. Sanjay v. Indian Bank*⁸, succinctly summarized the applicable legal principles governing the exercise of such jurisdiction. The relevant paragraphs of the said judgment are extracted below:

“9. It is well settled that interference by the Writ Court for mere infraction of any statutory provision or norms, if such infraction has not resulted in injustice is not a matter of course. In the case of *Shiv Shanker Dal Mills v. State of Haryana*, (1980) 2 SCC 437, the dealers in that case had paid market fees at the increased rate of 3%, which was raised from the original 2 per cent under Haryana Act 22 of 1977. The excess of 1 per cent over the original rate was declared *ultra vires* by this Court in the case of *Kewal Krishna Puri v. State of Punjab*, (1980) 1 SCC 416. The excess of 1 per cent over the original rate having been declared *ultra vires*, became refundable to the respective dealers from whom they were recovered by the Market Committee concerned. The demand for

⁸ 2025 SCC OnLine SC 368



refund of the excess amounts illegally recovered from them not having been complied with, the dealers filed Writ Petitions under Article 32 and Article 226 of the Constitution for a direction to that effect to the Market Committee concerned. The Market Committees contended that although the refund of the excess collections might be legally due to the dealers, many of them had in turn recovered this excess percentage from the next purchasers. While disposing of the petition and laying down guidelines, this Court held as under:

“Article 226 grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the court, exercising this flexible power, to pass such order as public interest dictates and equity projects. Courts of equity may, and frequently do, go much further both to give and withhold relief in furtherance of the public interest than they are accustomed to go where only private interests are involved. Accordingly, the granting or withholding of relief may properly be dependent upon considerations as of public interest.”

10. It has been rightly observed that legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal Court of Appeal, which it is not. It is a settled principle of law that the remedy under Article 226 of the Constitution of India is discretionary in nature and in a given case, even if some action or order challenged in the petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties.”

(Emphasis supplied)

25. Further, the Hon’ble Supreme Court in ***Celir LLP v. Bafna Motors (Mumbai) (P) Ltd.***⁹, after considering a series of precedents, reiterated that High Courts should ordinarily refrain from exercising jurisdiction under Article 226 of the Constitution when an effective

⁹ (2024) 2 SCC 1



and efficacious statutory remedy is available, particularly under specialized enactments like the SARFAESI Act and the **Recovery of Debts and Bankruptcy Act, 1993**¹⁰. The Apex Court held that these legislations constitute self-contained codes providing comprehensive procedures and appellate mechanisms for redressal. Though the power under Article 226 is wide, it is subject to self-imposed restraint, and entertaining writ petitions without exhausting statutory remedies undermines the legislative intent and adversely affects the recovery rights of banks and financial institutions. The relevant portion of *Celir LLP* (*supra*) reads as under:

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

“43. Unfortunately, the High Court [*Satyawati Tondon v. State of U.P., 2009 SCC OnLine All 2608*] overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person

¹⁰ RDB Act



must exhaust the remedies available under the relevant statute.

44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance.

55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

100. In *Varimadugu Obi Reddy v. B. Sreenivasulu*, (2023) 2 SCC 168, it was held as under: (SCC p. 183, para 36)

“36. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of pre-deposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the



Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated under the second proviso to Section 18 of the 2002 Act.”

101. More than a decade back, this Court had expressed serious concern despite its repeated pronouncements in regard to the High Courts ignoring the availability of statutory remedies under the RDBFI Act and the SARFAESI Act and exercise of jurisdiction under Article 226 of the Constitution. Even after, the decision of this Court in *United Bank of India v. Satyawati Tondon*, (2010) 8 SCC 110, it appears that the High Courts have continued to exercise its writ jurisdiction under Article 226 ignoring the statutory remedies under the RDBFI Act and the SARFAESI Act.”

26. It is, therefore, a well-established and consistently affirmed principle of law that the High Courts should ordinarily refrain from invoking their extraordinary jurisdiction under Article 226 of the Constitution when an effective and efficacious alternative remedy is available to the aggrieved party. Judicial interference in such matters is warranted only in exceptional circumstances, such as when the tribunal has acted without jurisdiction, in patent violation of the principles of natural justice, or where the statutory remedy is demonstrably illusory or inefficacious. Save in these narrowly defined exceptions, a writ petition impugning any order of a statutory tribunal, including the learned DRT or learned DRAT, particularly when proceedings under the SARFAESI Act or the RDB Act are still pending, may not be maintainable. The restraint on judicial intervention assumes even greater significance when the Impugned Order merely denies interim relief, as the scope of interference under Article 226 in such cases is exceedingly limited.

27. During the course of the hearing, we specifically queried the learned counsel for the Petitioner as to why this Court should entertain



the present petition against refusal of an interim order, when the main Appeal is still pending before the learned DRAT, wherein the very same grievance arising from the sale notice dated 10.03.2023 is under challenge. We further asked why the Petitioner could not urge the same grounds before the learned DRAT in the said Appeal. In response, the learned counsel for the Petitioner was unable to provide any cogent explanation and instead insisted that this Court consider the merits of the petition on the grounds, *inter alia*, that the sale notice dated 10.03.2023 is in violation of the order dated 30.05.2023 passed by the learned DRT.

28. Upon a careful examination of the record, we find that entertaining and adjudicating the present Writ Petition, which raises issues substantially identical to those already *sub judice* before the learned DRAT in Misc. Appeal No. 50/2023 would result in parallel proceedings and render the said appeal infructuous. Moreover, several grounds urged herein are also pending consideration before the learned DRT in TSA No. 798/2022. Any adjudication on merits by this Court at this juncture would therefore risk pre-empting, overlapping with, or effectively nullifying the ongoing proceedings before both the learned DRT and learned DRAT.

29. We do not propose to entertain the present Petition for the reasons discussed above, which, *inter alia*, may be summarized as under:

- (i) The jurisdiction of this Court under Article 226 is discretionary and limited in scope.
- (ii) The jurisdiction to interfere with an interim order is even more restricted.



- (iii) An effective alternative statutory remedy is available, which the Petitioner has already invoked and is pending for adjudication.
- (iv) The very issues forming the basis of this Petition are pending adjudication before the learned DRAT on almost identical grounds.
- (v) The Petitioner has failed to demonstrate any extraordinary circumstance warranting interference by this Court when the matter can effectively be adjudicated by the statutory forums.

30. While concluding, we are mindful of the fact that on 28.03.2023, Respondent No. 2 was declared the successful bidder, and a sale certificate was issued in its favour on 05.04.2023. We also note that, pursuant to the Interim Orders dated 06.04.2023 and 13.04.2023 passed in the present writ petition, Respondent No. 2 has been restrained from taking possession of the mortgaged property. We are conscious that dismissing the present petition and directing the Petitioner to pursue the matter before the learned DRAT may cause certain practical difficulties; however, that alone cannot be a ground to bypass the statutory scheme or to invoke the extraordinary jurisdiction of this Court.

31. At the same time, we are also of the considered view that the proceedings emanating from the sale notice dated 10.03.2023, which are pending before the learned DRAT, and some issues pending before the learned DRT, are capable of being adjudicated comprehensively under the framework of the SARFAESI Act. In the event the Petitioner succeeds before the learned DRT or learned DRAT on any of the grounds urged therein, those forums are fully empowered under the law to set aside the impugned actions, restore



2025:DHC:10094-DB



status quo ante, and grant appropriate relief for any loss caused by actions found to be contrary to law.

DECISION:

32. In view of the foregoing discussion, and considering the facts and circumstances of the present case as well as the settled position of law, we do not find any reason to interfere with the Impugned Order. The Petitioner has an effective and efficacious alternative remedy available under the statutory framework, which the Petitioner has already invoked and is pending adjudication. Accordingly, the present Writ Petition stands dismissed.

33. It is, however, made clear that this Court has not expressed any opinion on the merits of the grounds raised by the Petitioner. The Petitioner shall be at liberty to pursue and avail the remedies available in law before the appropriate forum.

34. Needless to say, in the event the Petitioner succeeds in the challenge before the learned DRT or the learned DRAT, the Petitioner shall be entitled to appropriate reliefs in accordance with law.

35. With the aforesaid observations, the present Writ Petition, along with pending application(s), if any, stands disposed of.

36. No Order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
NOVEMBER 18, 2025/sm/va