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

Date of decision: 24.11.2025

\+ W.P.(C) 10999/2020, CM APPL. 34379/2020 (For Stay) & CM APPL. 50555/2025 (For Dir.)

M/S YUKATI E SERVICES PVT. LTD. .....Petitioner

Through: Mr. Kartikeya Singh & Mr. Samarth Shandilya, Advs.

versus

INDIA INFOLINE FINANCE LIMITED & ORS. .....Respondents

Through: Mr. Pallav Saxena and Ms. Ishika Sharma, Advs. for R-1.

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\+ W.P.(C) 11012/2020, CM APPL. 34478/2020 (For Stay) & CM APPL. 50553/2025 (For Dir.)

AKSHITA AND ANTRIKSH COLD STORAGE PVT. LTD. .....Petitioner

Through: Mr. Kartikeya Singh & Mr. Samarth Shandilya, Advs.

versus

INDIA INFOLINE FINANCE LIMITED & ORS. .....Respondents

Through: Mr. Pallav Saxena and Ms. Ishika Sharma, Advs. for R-1.

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\+ W.P.(C) 11032/2020, CM APPL. 34468/2020 (Ex. from filing certified copies of annexures) & CM APPL. 50377/2025 (Seeking Direction)

SUMMER INFOTECH PVT. LTD .....Petitioner

Through: Mr. Kartikeya Singh & Mr. Samarth Shandilya, Advs.

versus

INDIA INFOLINE FINANCE LIMITED & ORS. .....Respondents

Through: Mr. Pallav Saxena and Ms. Ishika Sharma, Advs. for R-1.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

% **JUDGEMENT (ORAL)**

ANIL KSHETARPAL, J.

1. The present Order shall dispose of three connected Writ Petitions, being W.P.(C) 10999/2020, W.P.(C) 11012/2020, and W.P.(C) 11013/2020, wherein the Petitioners assail the correctness and legality of separate but similar Orders passed by the **Debts Recovery Appellate Tribunal**[1].

2. In substance, the three Petitioners, before this Court assert that there exists registered Agreement to Sell executed in their favour by the borrower/developer.

3. Admittedly, the aforesaid borrower/developer in the year 2013 while borrowing the loan from the Respondent created mortgage of

[1] DRAT

the property by deposit of the title deeds.

4. On account of default committed by the borrower/developer in repayment of the loan, proceedings under **Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002**[2] were initiated.

5. Initially, the borrower filed **Securitization Application**[3] before the **DRT**, which was dismissed.

6. Subsequently, the Petitioners, claiming to be *bonafide* purchasers, filed SAs which were allowed. However, the same was reversed by the DRAT.

7. Heard learned counsel representing the parties at length and with their able assistance, perused the paperbooks.

8. Learned counsel for the Petitioner submits that the Petitioners herein are *bonafide* purchasers of the property for valuable consideration and the loan agreement while mortgaging property is not binding upon them. He further submits that initially the loan was for Rs. 10 crores whereas a registered mortgage deed was executed only for Rs. 10 lakhs. He further contends that there is no collusion between the borrower and the Petitioners in all three writ petitions.

9. *Per contra*, learned counsel appearing for the Respondents submits that while mortgaging the entire property, the charge was registered on 24.01.2013 with the Registrar of companies because the borrower is a Private Limited Company.

10. He further submits that registered mortgage deed for Rs. 10 lakhs was created only to have a registered document.

11. In fact, the loan was for Rs. 10 crores while depositing title

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[2] SARFAESI

[3] SA

deeds as permissible in law.

12. It is further contended by the Respondents while referring to Paragraph 3.2 of Miscellaneous Application no. 50555/2025 that there is collusion between the Petitioner and the borrower. Paragraph 3.2 is reproduced hereinbelow for reference:

> "**3.2** Pertinently, while the matter remained pending consideration before this Hon'ble Court, the CIRP was initiated against the Respondent No.2 vide order dated 02.06.2022 passed by the Hon'ble NCLT in CP(IB) 48 of 2020 which fact remained unknown to the Petitioner until 09.01.2023, when it received an email from the RP in the aforesaid context. The petitioner filed its claim subsequently however, same stood rejected by the RP for being time barred. After directions passed by the Ld. NCLT, New Delhi condoning the delay in filing of the claim while further directing the RP to examine the claim on merits, consequently, the RP of the Respondent No.2 vide an email dated 29.05.2023 once again rejected the claim of the of the Applicant inter alia on the following grounds: -
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> a) Claims were filed by third parties in relations to the residential units sold to the Applicant.
> b) The sale price of units sold to third parties was higher than that of the Applicant.
> c) The sale to third parties is supported by an allotment letter, possession letter, builder buyer agreement etc. which documents are not available to the Applicant.
> d) No NOC is available from IIFL Ltd. (Respondent no. 1 herein) for the sale of the units to the Applicant."

13. As per Section 54 of the **Transfer of Property Act, 1882**[4], an Agreement to Sell does not create any title in favour of the agreement holder.

14. There is no registered sale deed in favour of the Petitioners. Moreover, once the property is mortgaged, any alienation of the property shall be subject to the prior rights of the mortgagee which will remain unaffected by any subsequent transaction. Hence, the Petitioners cannot claim to be a *bonafide* purchaser.

15. With regard to the aspect of collusion, the learned Tribunal has recorded the following findings of fact which reads as under:

> "**8.** After giving my thoughtful consideration to the entire aspects of the matter I have come to the conclusion without any hesitation that this is clearly a case of collusion between respondent no. 1 companies and the defaulter borrower Company and respondent no.1 companies have been thrown into the legal battle by the borrower company after it itself had failed to challenge the actions of appellant Fl in its own S.A. No. 04.2017. It is an admitted fact that loan of Rs. ten crores was granted by the appellant to the borrower Company and that borrower had deposited title deeds in respect of the property in question. That way equitable mortgage stood created in favour of the appellant Fl at the time of grant of loan of Rs. ten crores and just because there was a separate mortgage deed executed on 31.01.2023 for a loan of Rs. ten lacs it could not be said, as held erroneously by the DRT, that the loan amount secured by way of mortgage of property in question was only Rs. ten lacs and SARFAESI action could not be taken to recover eleven crores odd (inclusive of interest). That finding of the DRT is clearly erroneous.
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> **9.** This tribunal is in full agreement with the submission of the learned counsel Mr. Pallav Saxena for the appellant Fl that the respondent no. 1 companies (sister concerns), had jumped into this legal battle after the borrower-builder had lost its legal battle in the form of S.A. No. 04/2017 in which it was never claimed by the borrower that it had already sold some flats to the present three respondent no.1 companies. Collusion between the respondents is evident from the fact that despite the fact that respondent no.l companies in these appeals claim to have bought a number flats in the under construction project of Jaipuria Buildcon Pvt. Ltd. way back in the year 2015 and had paid crores of rupees as sale consideration and till date had not been given the flats they have not initiated any action against the builder to get back crores of rupees or possession of the flats allegedly purchased by them. What for these companies are waiting for even after passage of six years when they invested crores of rupees with the said builder Company and further when their own persons Atul Singh Tyagi and Dalip Bhatia were constituted as a general attorneys by the builder who could have perfected the titles in respect of the flats allegedly purchased by them by executing regular sale deeds in their own favour. Because of inaction on the part of these three companies to recover their monies the only inference which can be drawn is that they all are hands in glove with each other and have

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[4] TPA

joined hands in a sinister mission to see that the appellant financial institution which funded crores of rupees to the builder for construction/completion of the residential project/mortgaged property does not get back its money by keeping it entangled in frivolous litigations. Though an excuse was given in the SAs that sale deeds though could be executed through the abovenamed attorneys but that was not done "in sheer respect of Law & Judiciary" but this explanation hardly inspires confidence when these companies had allegedly invested over ten cores to buy some flats in 'Jaipuria Apartments'.

10. There is also no explanation coming from the side of the three buyer companies as to why regular sale deeds were also not got executed in their favour when as per their own persons = Atul SinghTyagi and Daleep Bhatia had been constituted as its general attorneys by the builder/borrower. That is also a circumstance suggesting collusion between all of them. The respondent no.1 companies have also not pointed out any illegality in the SARFAESI actions of the appellant under SARFAESI Act which could justify grant of the relief which has been granted to them by the DRT on totally unsustainable grounds."

16. Moreover, paragraph 3.2 of the Miscellaneous Application reveals that the Petitioners are indulging in proxy litigation on behalf of the borrower.

17. Consequently, this Court finds no merit. Hence, all three Writ Petitions are dismissed.

18. A photocopy of the Order passed today be kept in the connected matters.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 24, 2025/v/kr