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W.P.No.1071 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

WP No.1071 of 2025
and WMP No.1315 of 2025

Tarun Kumar C.N
S/o.Nandakumar,
No.18/19, 2nd Street South,
High Court Colony, Villivakkam,
Tiruvallur, Tamilnadu - 600 049.

Petitioner(s)

Vs

1. The Reserve Bank India
16, Rajaji Salai, Fort Glacis,
Chennai, Tamilnadu - 600 001.
2. Punjab National Bank
Rep by its Assistant General Manager,
Circle Sastra Centre, Second Floor,
Spencer Plaza, 796, Anna Salai,
Chennai - 600 002.

Respondent(s)

PRAYER: Petition filed under Article 226 of the Constitution of India
seeking issuance of a writ of certiorari to call for the records and to



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quash the same forfeiture letter issued by the 2nd respondent letter dated 6.10.2024 vide reference No.CSC/3612/S/2024-25.

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For Petitioner(s): Mr. V.Balasubramani

For Respondent(s): Mr.T.Poornam
for R1

R2 - No Appearance

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The petitioner has approached this court invoking the extraordinary jurisdiction under Article 226 of the Constitution of India, seeking the issuance of a writ of certiorari to call for records and quash the forfeiture letter dated 06.10.2024 issued by the second respondent bank, whereby a sum representing 25% of the total bid amount deposited by the petitioner was forfeited.

2.1. The skeletal facts necessary for disposing of the instant writ petition are delineated thus: An e-auction sale notice was promulgated, and the public auction was conducted on 19.07.2024. The petitioner participated in the auction and was declared the successful bidder, having offered the highest bid of



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Rs.1,07,92,000/- for the secured asset. In alignment with the regulatory scheme, the petitioner deposited 25% of the bid amount, totalling Rs.26,98,000/- (inclusive of the Earnest Money Deposit), which was duly acknowledged by the bank via a sale confirmation letter dated 20.07.2024. As per the terms of the sale confirmation and Rule 9(4) of the Security Interest (Enforcement) Rules, 2002, the petitioner was under a mandate to deposit the residual 75% of the bid amount (amounting to Rs.80,94,000/-) within fifteen days, which may, upon agreement in writing, be extended to a period not exceeding three months.

2.2. It is stated that the petitioner came to know that the secured asset was in possession of third party despite confirmation of sale in favour of the petitioner and, therefore, the petitioner informed the second respondent that the balance payment shall be made at the time of handing over the physical possession of the property. Thereafter, the second respondent requested payment of balance bid amount and indicated that, in default, the EMD amount would be forfeited. Subsequently, by letter dated 6.11.2024, the



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second respondent forfeited the 25% amount deposited by the petitioner.

3. Learned counsel for the petitioner submits that, upon subsequent inquiries, he discovered that the subject property was under third-party occupation and burdened with undisclosed encumbrances. It is argued that the respondents suppressed material facts and the same paralyzed the petitioner's capability to secure financial advances to meet the balance consideration. The petitioner maintains that his failure to pay the remainder was not contumacious, but was triggered by the bank's non-disclosure of the ground realities concerning physical possession. He hastened to add that the second respondent forfeited 25% of the bid amount within 79 days, well within the statutory period of 90 days and, therefore, the forfeiture has to be set aside.

4. We have heard the learned counsel for the petitioner and perused the documents on record.



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5. The threshold question that falls for consideration of this Court is not the intrinsic validity of the forfeiture order on facts, but rather the maintainability of the writ petition in the face of an available statutory remedy. The invocation of Article 226 of the Constitution of India must be self-regulated and restrained when a specialized, efficacious alternative mechanism has been designed by the Legislature.

6. The Supreme Court in *Agarwal Tracom (P) Ltd. v. Punjab National Bank*¹, while evaluating the precise statutory boundary of Section 17 of the SARFAESI Act vis-à-vis Rule 9(5) of the Security Interest (Enforcement) Rules, held thus:

"28. We also notice that *Rule 9(5) confers express power on the secured creditor to forfeit the deposit made by the auction-purchaser in case the auction-purchaser commits any default in paying instalment of sale money to the secured creditor. Such action taken by the secured creditor is, in our opinion, a part of the measures specified in Section 13(4) and, therefore, it is regarded as a measure taken*

¹ (2018) 1 SCC 626



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under Section 13(4) read with Rule 9(5). In our view, the measures taken under Section 13(4) commence with any of the action taken in clauses (a) to (d) and end with measures specified in Rule 9.

29. In our view, therefore, ***the expression "any of the measures referred to in Section 13(4) taken by secured creditor or his authorised officer" in Section 17(1) would include all actions taken by the secured creditor under the Rules*** which relate to the measures specified in Section 13(4).

30. ***The auction-purchaser (appellant herein) is one such person, who is aggrieved by the action of the secured creditor in forfeiting their money. The appellant, therefore, falls within the expression "any person" as specified under Section 17(1) and hence is entitled to challenge the action of the secured creditor (PNB) before the DRT by filing an application under Section 17(1) of the Sarfaesi Act.***

33. In the light of the foregoing discussion, ***we are of the considered opinion that the writ court as also the appellate court were justified in dismissing the appellant's writ petition on the***



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ground of availability of alternative statutory remedy of filing an application under Section 17(1) of the Sarfaesi Act before the Tribunal concerned to challenge the action of PNB in forfeiting the appellant's deposit under Rule 9(5). ...

34. The appellant is, accordingly, granted liberty to file an application before the Tribunal concerned (DRT) under Section 17(1) of the Sarfaesi Act, which has jurisdiction to entertain such application within 45 days from the date of this order. In case, if the appellant files any such application, the Tribunal shall decide the same on its merits in accordance with law uninfluenced by any of the observations made by this Court and the High Court in the impugned judgment. ... "

[emphasis supplied]

7. The Supreme Court unequivocally deduced that an auction-purchaser aggrieved by an order of forfeiture squarely qualifies as "any person" within the meaning of Section 17(1) of the SARFAESI Act, and is fully clothed with the right to challenge such an action before the jurisdictional Debts Recovery Tribunal (DRT).



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8. The law enunciated by the Supreme Court in the aforesaid decision squarely applies to the facts of the present case. The petitioner's grievances concerning the non-disclosure of encumbrances, third-party possession, and the alleged procedural deviations in directing the forfeiture are factual and legal questions that fall entirely within the adjudicative domain of the Debts Recovery Tribunal.

9. For the aforegiven reasons, this court is not inclined to entertain the writ petition on its merits. Accordingly, the writ petition is dismissed. However, liberty is granted to the petitioner to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. If the petitioner chooses to institute such an application within a period of two weeks from today, the Tribunal shall compute the period of limitation by excluding the period during which the petitioner was bona fide prosecuting the instant writ petition before this Court. The Tribunal shall decide the matter independently on its own merits, strictly in accordance with law,



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completely uninfluenced by any observations touching upon the merits of the case made in this order.

There shall be no order as to costs. Consequently, interim application stands closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
01.07.2026

Index : Yes/No
Neutral Citation : Yes/No
sasi

To:

1. The Reserve Bank India
16, Rajaji Salai, Fort Glacis,
Chennai, Tamilnadu - 600 001.
2. The Assistant General Manager,
Punjab National Bank
Circle Sastra Centre, Second Floor,
Spencer Plaza, 796, Anna Salai,
Chennai - 600 002.



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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

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