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

\+ W.P.(C) 3087/2026 & CM APPL. 14911/2026

IMS (INSTITUTE OF MATHEMATICAL SCIENCES) & ORS.
.....Petitioners

Through: Mr. Fatesh Kumar Sahu, Mr. J.M.Junaid, Mr. Divyanshu Jain, Advs.

versus

SAMMAAN FINSERVE LIMITED (FORMELY KNOWN AS INDIANBULLS COMMERCIAL CREDIT LIMIT) .....Respondent

Through: Appearance not given.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **11.03.2026**

1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers :

> *"a) Allow the present Writ Petition;*
>
> *b) Issue an appropriate writ, order or direction thereby quashing and setting aside the purported Demand Notice under Section 13(2) of the SARFAESI Act dated 11.09.2025, the Possession Notice under Section 13(4) dated 05.12.2025, and the Sale Notice under Rule 8(6) dated 30.01.2026 issued by the Respondent in respect of Loan A/c No. HLLADPR00543700 and the secured asset being " THE HOUSE BEARING MUNICIPAL NO. 12-13-354, ADMEASURING 300 SQ. YARDS, EQUIVALENT TO 250.80 SQ. MTRS., HAVING PLINTH AREA OF 1096 SQ. FT., SITUATED ON PLOT NO. 2/9/1, IN SURVEY NO. 144, 165 (OLD), NEW SY. NO. 182/1-25, AT STREET NO.*

19, TARNAKA, LALLAGUDA, SECUNDERABAD, HYDERABAD-500017, TELANGANA, HAVING PTI NO. 1181225724, bounded by: North: Plot No. 2/9 belonging to neighbour; South: 20 ft. wide municipal corporation road; East: 18 ft. wide municipal corporation road; West: Neighbor's Plot No. 2/9." ;

c) Restrain the Respondent, its officers, agents and servants from proceeding with the e-auction scheduled for 10.03.2026 or any subsequent date, and from taking physical possession of the secured asset in pursuance of the impugned notices;

d) Direct the Respondent to consider the Petitioners' request for restructuring/regularisation/OTS in a time-bound manner and permit payment on reasonable terms;

e) Award the costs of this Petition in favour of the Petitioners and against the Respondent;

f) Award the cost of litigation and also the court fee/application fee (if any) paid by the Petitioners herein in favour of the Petitioners and against the Respondent;

g) Grant exemplary damages in favour of the Petitioners and against the Respondent since the Petitioners have been unnecessarily dragged into litigation by the Respondent in an illegal manner;..."

2. Mr. Sahu, learned counsel for the petitioners, states that in the present case the respondent has not served any notice under Section 13 (2) and 13 (4) of the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002, ***("SARFAESI")*** before initiating proceedings under the SARFAESI. This action of the respondent is in violation of the Rule 3 of the Security Interest (Enforcement) Rules, 2002 which reads as under:

> *"3. Demand Notice:-(1) The service of demand notice as referred to in Sub-section (2) of Section 13 of the Ordinance shall be made by delivering or transmitting at the place where the borrower or his agent, empowered to accept the notice or documents on behalf of the borrower, actually and voluntarily resides or carries on business or personally works for gain, by registered post with acknowledgement due, addressed to the borrower or his agent empowered to accept the service or by Speed Post or by courier or by any other means of transmission of documents like fax message or electronic mail service:*
>
> *Provided that where authorised officer has reason to believe that the borrower or his agent is avoiding the service of the notice or that for any other reason, the service cannot be made as aforesaid, the service shall be effected by affixing a copy of the demand notice on the outer door or some other conspicuous part of the house or building in which the borrower or his agent ordinarily resides or carries on business or personally works for gain and also by publishing the contents of the demand notice in two leading newspapers, one in vernacular language, having sufficient circulation in that locality.*

(2) where the borrower is a body corporate, the demand notice shall be served on the registered office or any of the branches of such body corporate as specified under subrule(1).

(3) Any other notice in writing to be served on the borrower or his agent by authorised officer, shall be served in the same manner as provided in this rule.

(4) Where there are more than one borrower, the demand notice shall be served on each borrower.

4. Procedure after issue of notice.-If the amount mentioned in the demand notice is not paid within the time specified therein, the authorised officer shall proceed to realise the amount by adopting any one or more of the measures specified in Sub-section (4) of Section 13 of the Ordinance for taking possession of movable property, namely:-

(1) Where the possession of the secured assets to be taken by the secured creditor are movable property in possession of the borrower, the authorised officer shall take possession of such movable property in the presence of two witnesses after a Panchanama drawn and signed by the witnesses as nearly as possible in Appendix-I to these rules.

(2). After taking possession under sub-rule (1) above, the authorised officer shall make or cause to be made an inventory of the property as nearly as possible in the form given in Appendix-II to these rules and deliver or cause to be delivered, a copy of such inventory to the borrower or to

any person entitled to receive on behalf of borrower.

(3) The authorised officer shall keep the property taken possession under sub-rule (1) either in his own custody or in the custody of any person authorised or appointed by him, who shall take as much care of the property in his custody as an owner of ordinary prudence would, under the similar circumstances, take of such property:

Provided that if such property is subject to speedy or natural decay, or the expense of keeping such property in custody is likely to exceed its value, the authorised officer may sell it at once.

(4) The authorised officer shall take steps for preservation and protection of secured assets and insure them, if

(5) necessary, till they are sold or otherwise disposed of. In case any secured asset is-

(a) a debt not secured by negotiable instrument; or

(b) a share in a body corporate;

(c) other movable property not in the possession of the borrower except the property deposited in or in the custody of any court or any like authority, the authorised officer shall obtain possession or recover the debt by service of notice as under :-

(i) in the case of a debt, prohibiting the borrower from recovering the debt or any interest thereon, and the debtor from making payment thereof and directing the debtor to make such payment to the authorised officer; or

(ii) in the case of the shares in a body corporate, directing the borrower to transfer the same to the secured creditor and also the body corporate from not transferring such shares in favour of any person other than the secured creditor. A copy of the notice so sent may be endorsed to the concerned body corporate's Registrar to the issue or share transfer agents, if any;

(iii) in the case of other movable property (except as aforesaid), calling upon the borrowers and the person in possession to hand over the same to the authorised officer and the authorised officer shall take custody of such movable property in the same manner as provided in Sub-rule (1) to (3) above:

(iv) movable secured assets other than those covered in this rule shall be taken possession of by the authorised officer by taking possession of the documents evidencing title to such secured assets."

3. Learned counsel for the respondent, appears on advance notice and has handed over documents which show that notices under Section 13 (2) and 13 (4) of the SARFAESI were duly served through courier on the petitioners before proceeding under SARFAESI.

4. My attention has also been drawn to the judgement of the Hon'ble Supreme Court in ***Phoenix ARC (P) Ltd. v. Vishwa Bharati Vidya Mandir, (2022) 5 SCC 345,*** and more particularly on paragraph Nos. 12 and 16 which read as under:

"12.In Kanaiyalal Lalchand Sachdev [Kanaiyalal Lalchand

Sachdev v. State of Maharashtra, (2011) 2 SCC 782 : (2011) 1 SCC (Civ) 570] after referring to the earlier decisions of this Court in Sadhana Lodh v. National Insurance Co. Ltd. [Sadhana Lodh v. National Insurance Co. Ltd., (2003) 3 SCC 524 : 2003 SCC (Cri) 762] , Surya Dev Rai v. Ram Chander Rai [Surya Dev Rai v. Ram Chander Rai, (2003) 6 SCC 675] and SBI v. Allied Chemical Laboratories [SBI v. Allied Chemical Laboratories, (2006) 9 SCC 252] while upholding the order passed by the High Court dismissing the writ petition on the ground that an efficacious remedy is available under Section 17 of the SARFAESI Act, it was observed that ordinarily relief under Articles 226/227 of the Constitution of India is not available if an efficacious alternative remedy is available to any aggrieved person.

16. Assuming that the communication dated 13-8-2015 can be said to be a notice under Section 13(4) of the Sarfaesi Act, in that case also, in view of the statutory remedy available under Section 17 of the Sarfaesi Act and in view of the law laid down by this Court in the cases referred to hereinabove, the writ petitions against the notice under Section 13(4) of the Sarfaesi Act was not required to be entertained by the High Court. Therefore, the High Court has erred in entertaining the writ petitions against the communication dated 13-8-2015 and also passing the ex parte ad interim orders directing to maintain the status quo *with respect to possession of secured properties on the condition directing the borrowers to pay Rs 1 crore only (in all Rs 3 crores in view of the subsequent orders passed by the High Court extending the ex parte ad interim order dated 26-8-2015 [Vishwa Bharathi Vidya Mandir v. Authorized Officer, WP No. 35564 of 2015, order dated 26-8-2015 (Kar)]) against the total dues of approximate Rs 117 crores. Even the High Court ought to have considered and disposed of the application for vacating the ex parte ad interim relief, which was filed in the year 2016 at the earliest considering the fact that a large sum of Rs 117 crores was involved".*

5. From a perusal of the aforesaid facts and documents in the present case, *prima facie* it appears that the petitioner has been served with notices under Section 13(2) and 13(4) of the SARFAESI and additionally the petitioner has an equally efficacious statutory remedy under Section 17 of the SARFAESI.

6. For the said reasons, the petition is dismissed, granting liberty to the petitioner to approach the DRT in accordance with law.

7. The court has not examined the merits of the present matter.

JASMEET SINGH, J

MARCH 11, 2026/AS