

2025 LiveLaw (SC) 722

IN THE SUPREME COURT OF INDIA

DIPANKAR DATTA; J., AUGUSTINE GEORGE MASIH; J.

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 7979/2025; 15-07-2025

LIC HOUSING FINANCE LTD. *versus* NAGSON AND COMPANY & ORS.

Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 - Section 13 - Procedure for secured creditors to enforce their security interests when a borrower defaults on loan payment – Supreme Court expressed strong disapproval that despite previous cautions in judgments *United Bank of India vs. Satyawati Tondon & Ors.* (2010) 8 SCC 110, regarding judicious exercise of writ jurisdiction in SARFAESI Act matters, some High Courts continue to grant interim relief “on the mere asking” and “without just and sufficient reason being recorded” causing great disservice to institutional credibility - High Court in present case interfered with the proceedings initiated under section 13 of the SARFAESI Act by petitioner-secured creditor and restrained it from proceeding further on condition of payment of Rs. 5 crore only by the defaulting borrower - Court expressed disappointment on the fact that the writ petition has been pending for more than 30 months and defaulting borrower is reaping the benefit of such interim orders - Court directed High court to give precedence to the Writ Petition of defaulting borrower and decide the same by end of September, 2025. This Court also issued notice returnable on 10 October, 2025. [Paras 1, 2, 4]

[Arising out of impugned final judgment and order dated 29-09-2021 in WP No. 17727/2021 and 23-09-2022 in WP No.17727/2021 passed by the High Court of Karnataka at Bengaluru]

For Petitioner(s): Mr. Suvendu Suvasis Dash, AOR Mr. Ashok Panigrahi, Sr. Adv. Ms. Swati Vaibhav, Adv. Ms. Geetanjali Das Krishnan, Adv.

ORDER

1. Despite this Court in a series of judgments [*United Bank of India Vs. Satyawati Tondon & Ors.*¹ being one of them] having cautioned the high courts to exercise writ jurisdiction judiciously while entertaining challenges to actions taken by secured creditors under Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002² to enforce their security interest in view of the scheme, purpose and object of the enactment, some of the high courts look the other way and grant interim relief on the mere asking. We still come across cases where, without just and sufficient reason being recorded, proceedings taken by secured creditors have ben interdicted by the high courts, with or without imposition of conditions, amounting to great disservice to institutional credibility.

2. The present is one such case. The High Court of Karnataka, without recording any reason, has interfered with proceedings initiated under Section 13 of the SARFAESI Act by the petitioning secured creditor and restrained it from proceeding further on condition of payment of Rs.5 crore only by the defaulting borrower (petitioner before the High Court), by the first of the two impugned orders dated 29th September, 2021, on the face of Rs.41 crore and Rs.31 crore being the amounts claimed from such defaulting borrower *vide* the two demand notices, both dated 05th August, 2021, under Section 13(2) of the SARFAESI Act.

¹ (2010) 8 SCC 110

² SARFAESI Act

3. The High Court by a further order dated 23rd September, 2022, which is the second impugned order herein, having noted (belated) compliance with its earlier order has continued the earlier interim order till the next date of hearing. We are informed that despite lapse of more than thirty months since then, the writ petition is yet to be heard finally and the defaulting borrower is reaping the benefit of such interim orders.

4. We are taken aback having been informed of the pendency of the writ petition, together with the subsisting unreasoned interim orders, for so long. However, without expressing any opinion on the merits of the writ petition, we request the High Court to give precedence to the writ petition of the defaulting borrower and to decide the same, subject to its convenience, by the end of September, 2025. The roster bench shall proceed to decide the writ petition in accordance with law, but uninfluenced by any observation made hereinabove.

5. Issue notice on the application for condonation of delay as well as on the special leave petition, returnable on 10th October, 2025.

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