



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 12854/2025

1. Kishan Lal Sharma S/o Shri Raghunath Prasad Sharma, Resident Of Plot No. 98-A, Green Town Dadi Ka Phatak, Jaipur - 302 012.
2. Yogesh Kumar Sharma S/o Shri Raghunath Prasad Sharma, Resident Of Plot No.98-A, Green Town Dadi Ka Phatak, Jaipur - 302 012.
3. Raghunath Prasad Sharma S/o Shri Nemi Chand Sharma, Resident Of Plot No.98-A, Green Town Dadi Ka Phatak, Jaipur - 302 012.



-----Petitioners

Versus

1. Laxmi India Finleaseap Pvt. Ltd., Through Its Director, 33, Chitta Ranjan Avenue, 9Th Floor, Room No. 908-A, Kolkata - 7000012.
2. The Authorized Officer, Laxmi India Finleaseap Pvt. Ltd. 2, Dfl Tower, Gopinath Marg, M.i. Road, Jaipur - 302001.
3. Reliance Asset Reconstruction Company Limited, A Wing, Reliance Centre, 6Th Floor, North, Western Urban Rd,santacruz East, Mumbai-400055 (Maharashtra) Through Chief Manager And Authorized Officer Tarun Kumar Morya.

-----Respondents

For Petitioner(s)	:	Mr.Siddharth Bapna Mr.Banwari Singh Mr.Rahul Kumar Mr.Meyhul Mittal
For Respondent(s)	:	Mr.Akarsh Mathur Mr.Tej Pratap Singh Mr.Varun Singh Mr.Rajan Soni Mr.Tarun Goyal

JUSTICE ANOOP KUMAR DHAND
Order

27/08/2025



1. By way of filing this writ petition, a challenge has been led to the impugned order dated 12.08.2025 passed by the Debt Recovery Tribunal (for short, "the DRT") by which the Securitisation Application (SA) submitted by the petitioner under Section 17 of the Securitisation & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the Act of 2002") has been rejected.

2. Learned counsel for the petitioners submits that the loan was sanctioned in favour of all the petitioners, however, no amount was ever disbursed in favour of petitioner No.3 by the respondent-Institution and when the amount was not repaid, the proceedings under Sections 13 and 14 of the Act of 2002 were initiated against the petitioners, against which an SA under Section 17 of the Act of 2002 was preferred by the petitioners before the DRT in the year 2020. Counsel submits that the SA was filed under the signature and affidavits of one of the borrowers, i.e., petitioner No.2 and the rest of the borrowers submitted power and on the basis of the same, the SA submitted before the DRT was entertained and the same remained pending for a considerable time of five years.

3. Counsel submits that all of a sudden, the SA submitted by the petitioners has been rejected not on merits but on technical grounds that all the applicants have not signed the petition or the affidavit in support and that all the borrowers were not made party in the said application.

4. Counsel submits that no such rule stating that each and every party/ applicant is required to sign the petition or affidavit exists. The Vakalatnama was submitted on behalf of all the borrowers and all the borrowers were party in the SA, hence,



under these circumstances, the order impugned dated 12.08.2025 passed by the DRT is not tenable and is liable to be quashed and set-aside.

5. In support of his contention, learned counsel for the petitioners has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **Sathyanath & Anr. Vs. Sarojmani** reported in **(2022) 7 SCC 644**.

6. *Per contra*, learned counsel for the respondents opposes the arguments raised by counsel for the petitioners and submits that the impugned order dated 12.08.2025 passed by the DRT is appealable before the Debt Recovery Appellate Tribunal (for short, "the DRAT"), hence, the petitioners are supposed to approach the statutory Appellate Authority instead of approaching this Court by way of filing the instant writ petition.

7. In support of his contention, learned counsel for the respondents has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **PHR Invent Educational Society Vs. UCO Bank & Ors.** reported in **AIR 2024 SC 1894**.

8. Counsel submits that the SA submitted by the petitioners was not signed by all the borrowers, hence, the DRT has not committed any error in passing the order impugned, which warrants any interference of this Court and writ petition is liable to be rejected.

9. Heard and considered the submissions made at the Bar and perused the material available on record.

10. Perusal of the record indicates that the Securitisation Application was submitted by the petitioners before the DRT in the year 2020 and the same was entertained, thereafter, an interim





order was passed all of a sudden by which the said application submitted by the petitioners has been rejected not on merits but on the following two grounds:-

1. All the applicant has not signed the petition or affidavit in support. He may bring the power of attorney given to the applicant on behalf of the other applicant.
2. All the borrowers are not being made party.

Precisely for the above two reasons, the SA submitted by the petitioners has been dismissed by the DRT.

11. Counsel for the respondents has failed to satisfy this Court whether it is mandatory for all the petitioners/ applicants to sign the petition and submit individual affidavits in support of the SA before the DRT. The Hon'ble Apex Court in the case of **Sathyanath** (supra) has categorically held that all the rules of procedure are handmaid of justice, the object of the procedure is to advance the cause of justice and any party should not be denied the opportunity of participating in the process of justice dispensation on technicalities. It has been held in Para No.19 by the Hon'ble Apex Court which reads as under:-

"19. A three Judge Bench in a subsequent judgment reported as *Kailash v. Nanhku* held that all rules of procedure are handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent but the object of prescribing procedure is to advance the cause of justice. The Court held as under: (SCC p.495, paras 28-29)

"28. All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing





procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the provisions of CPC or any other procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extraordinary situations in the ends of justice. The observations made by Krishna Iyer, J. in *Sushil Kumar Sen v. State of Bihar* are pertinent: (SCC p. 777, paras 5-6)

“5.The mortality of justice at the hands of law troubles a judge's conscience and points an angry interrogation at the law reformer.

6. The processual law so dominates in certain systems as to overpower substantive rights and substantial justice. The humanist rule that procedure should be the handmaid, not the mistress, of legal justice compels consideration of vesting a residuary power in judges to act *ex debito justitiae* where the tragic sequel otherwise would be wholly inequitable. ... Justice is the goal of jurisprudence — processual, as much as substantive.”

29. In *State of Punjab v. Shamlal Murari* the Court approved in no unmistakable terms the approach of moderating into wholesome directions what is regarded as mandatory on the principle that: (SCC p. 720)

‘Processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. Procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice.’

In *Ghanshyam Dass v. Dominion of India* the Court reiterated the need for interpreting a part of the adjective law dealing with procedure alone in such a manner as to subserve and advance the cause of justice rather than to defeat it as all the laws of procedure are based on this principle.”

12. Perusal of the record indicates that the SA was signed by one of the borrowers and the same was submitted before the DRT by



all the three borrowers by signing the Vakalatnama and the said petition submitted by the petitioners was entertained and not rejected at its threshold in the year 2020. In the considered opinion of this Court, once the petition submitted by the petitioners was entertained and an interim order was passed therein and the same was kept pending for a period of more than five years, the DRT instead of rejecting the application on technical counts should have decided the application on its merits.

13. This Court finds no substance in the arguments raised by counsel for the respondents that this writ petition is not maintainable as the petitioners have alternative efficacious remedy of filing appeal before DRAT. The Hon'ble Apex Court in the case of **PHR Invent Educational Society** (supra), which has been relied by the respondents, has carved out certain exceptions in Para 29, which clearly states that the petition under Article 226 of the Constitution of India could be entertained by the High Court in spite of availability of alternative remedy, in case, the Authority has acted in defiance of the fundamental principles of judicial procedure.

14. In the instant case also, the DRT has acted in defiance of the fundamental principles of judicial process. Keeping in view all the facts and circumstance of the case, the impugned order dated 12.08.2025 passed by the DRT is not tenable and is liable to be and is hereby quashed and set-aside. The matter is remitted to DRT for its disposal on its merits.

15. Needless to observe, the DRT would make all possible endeavours to decide the pending SA expeditiously as early as





possible, preferably within a period of two months from the date of receipt of certified copy of this order.

16. Stay application and all pending application, if any, also stand disposed of.



Aayush Sharma /192-s

(ANOOP KUMAR DHAND),J