



2025:DHC:10225-DB



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

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Judgment reserved on: 28.10.2025
Judgment pronounced on: 21.11.2025

+ W.P.(C) 12184/2025, CM APPL. 49675/2025 (Stay), CM APPL. 49676/2025 (Ex.), CM APPL. 49677/2025 (Delay of 22 days in filing the petition) & CM APPL. 66877/2025 (Praying for the transfer of the present writ from Division bench to an appropriate Single Bench)

SANJEEV KRISHAN SHARMAPetitioner

Through: Dr. Pankaj Garg, Mr. Yaksh
Garg and Ms. Yashna Ahuja,
Advocates.

versus

PUNJAB NATIONAL BANK & ANR.Respondents

Through: Mr. Saurabh Kushawaha and
Mr. Rohit Arya, Advocates for
Respondent No. 2/Canara Bank.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. This Writ Petition has been filed under Articles 226 and 227 of the **Constitution of India**¹, invoking the supervisory jurisdiction of this Court, seeking directions for the expeditious adjudication and, preferably, after consolidation, of two **Interim Applications**² arising

¹ Constitution

² IAs



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out of common transactions and disputes, which are (i) I.A. No. 635/2024 in T.A. No. 406/2022 (O.A. No. 136/2016), titled *Punjab National Bank vs. M/s KMG A to Z Systems Pvt. Ltd. & Ors.*, pending before the **Debts Recovery Tribunal-III, Delhi**³; and (ii) I.A. No. 3340/2024 in T.A. No. 2097/2023 (O.A. No. 29/2017), titled *Canara Bank vs. M/s KMG A to Z Systems Pvt. Ltd. & Ors.*, pending before the **Debts Recovery Tribunal-II, Delhi**⁴. In both IAs, the Petitioner has sought discharge from his personal guarantee and release of his mortgaged immovable property.

2. The Petitioner further seeks a stay of the personal insolvency proceedings initiated against him under Section 95 of the **Insolvency and Bankruptcy Code, 2016**⁵, bearing (IB) No. 58/ND/2025, titled *Canara Bank vs. Sanjeev Krishan Sharma*, pending before the **National Company Law Tribunal, Court-VI, New Delhi**⁶. The Petitioner contends that the said proceedings arise from the same debt and transaction and that allowing them to continue simultaneously, before the **Debts Recovery Tribunals**⁷ and NCLT, would result in multiplicity of proceedings and the possibility of conflicting adjudications.

BRIEF FACTS:

3. The relevant facts, as borne out from the pleadings and the documents placed on record, are set out hereunder:

- (a) The Petitioner is the erstwhile (suspended) Director of *M/s KMG A to Z Systems Pvt. Ltd.*, a private limited company

³ DRT-III

⁴ DRT-II

⁵ IBC

⁶ NCLT

⁷ DRTs



incorporated in 1999 under the Companies Act, 1956. The said company had availed of certain credit facilities from a consortium of banks led by Respondent No. 1, with Respondent No. 2 being a participant lender. In connection with the said facilities, the Petitioner, along with others, executed a personal guarantee and further mortgaged his immovable property bearing Business Suite No. 508, 5th Floor, The Peach Tree Complex, Block-C, Sushant Lok, Phase I, Gurugram, Haryana, as collateral security.

- (b) Upon default in repayment by the borrower company, the Banks initiated recovery proceedings before the DRT. The first such proceeding was O.A. No. 136/2016, titled *Oriental Bank of Commerce v. M/s KMG A to Z Systems Pvt. Ltd. & Ors.*, which, after the merger of Oriental Bank of Commerce with Punjab National Bank, was renumbered as T.A. No. 406/2022 and is presently pending before the DRT-III. The Petitioner is arrayed as one of the Respondents in the said proceedings.
- (c) Separately, Canara Bank instituted O.A. No. 29/2017, now renumbered as T.A. No. 2097/2023, titled *Canara Bank v. M/s KMG A to Z Systems Pvt. Ltd. & Ors.*, which is pending before the DRT-II, wherein the Petitioner is also a Respondent.
- (d) Both proceedings allegedly emanate from the same underlying debt and security arrangement.
- (e) During the pendency of these recovery proceedings, Respondent No. 1, being the majority lender in the consortium, entered into a settlement with one of the co-guarantors, Mr. Rajiv Mittal, whereby the said co-guarantor was released from his personal guarantee and his mortgaged property was



discharged for a consideration of Rs. 7.40 crores. The said settlement was recorded by the DRT *vide* Order dated 08.04.2024 in T.A. No. 406/2022. The Petitioner alleges that the settlement was entered into unilaterally and without his knowledge or consent, and that such selective discharge of one co-surety has the legal consequence of discharging or reducing his own liability as a co-guarantor, by operation of Sections 133, 134, 139 and 141 of the **Indian Contract Act, 1872**⁸.

- (f) Thereafter, the Petitioner filed two IAs before the concerned DRTs seeking his discharge as a guarantor and release of the mortgaged property, *namely* -
 - (i) I.A. No. 635/2024 in T.A. No. 406/2022 before the DRT-III, Delhi; and
 - (ii) I.A. No. 3340/2024 in T.A. No. 2097/2023 before the DRT-II, Delhi.
- (g) While these IAs have been pending, Respondent No. 2 instituted personal insolvency proceedings against the Petitioner under Section 95 of the IBC, before NCLT, registered as (IB) No. 58/ND/2025, titled *Canara Bank v. Sanjeev Krishan Sharma*. The Petitioner alleges that he first became aware of the said insolvency petition on 26.05.2025. He further alleges that the insolvency proceeding is based on the same debt that forms the subject matter of the recovery actions before the DRTs.
- (h) The Petitioner contends that continuation of the insolvency proceedings before the NCLT, while his applications seeking discharge of guarantee remain pending before the DRTs, would

⁸ IC Act



result in multiplicity of proceedings and give rise to conflicting determinations by two independent fora on identical issues. It is submitted that the same underlying transaction and debt cannot be adjudicated concurrently by both the DRT and the NCLT.

- (i) In line of these facts, the Petitioner has filed the present Petition before us seeking directions, *namely*, (i) for the expeditious adjudication and, preferably, after consolidation of two IAs arising out of common transactions and disputes by the DRTs, and (ii) for stay of the insolvency proceeding initiated before the NCLT until the final disposal of the IAs pending before the DRTs.

CONTENTIONS OF THE PETITIONER:

4. The learned counsel for the Petitioner would contend that the Petitioner is being compelled to face parallel and overlapping proceedings before two independent judicial fora, *namely*, the DRTs and the NCLT, both emanating from the same underlying debt, transaction, and dispute. It would further be contended that such duplicity of process would not only subject the Petitioner to undue harassment and procedural unfairness but would also lead to multiplicity of litigation, thereby necessitating the intervention of this Hon'ble Court in exercise of its supervisory jurisdiction.

5. The learned counsel for the Petitioner would submit that the Petitioner has already questioned the validity, subsistence, and enforceability of his personal guarantee through two pending IAs before the DRTs, both of which arise from a common transaction and seek the discharge of the Petitioner's guarantee as well as the release of his mortgaged property, which have been kept pending for a long



time.

6. It would further be submitted by the learned Counsel that continuation of the insolvency proceedings before the NCLT during the pendency of these IAs before the DRTs would render the DRT proceedings infructuous, amount to denial of due process, and therefore, a direction would have to be issued by this Court staying the proceedings before the NCLT against the Petitioner.

7. The learned counsel for the Petitioner would also submit that the Petitioner's personal guarantee stands discharged in law by reason of a unilateral and selective settlement entered into by Respondent No. 1, the majority lender, with one of the co-guarantors, Mr. Rajiv Mittal, who has been fully released from his personal guarantee and mortgage upon payment of Rs. 7.40 crores.

8. The learned counsel for the Petitioner would further contend that, under Sections 133, 134, 139, and 141 of the IC Act, any variance in the terms of a contract of guarantee or any act of the creditor that impairs the surety's remedies results in the discharge of the remaining surety, as in the present case, of the Petitioner.

9. It would be also be contended by the learned counsel that by unilaterally releasing one co-guarantor, the Respondents have impaired the Petitioner's legal rights, thereby extinguishing his liability in law, and that any further prolongation in the adjudication of the IAs pending before the DRTs would be prejudicial to his rights and interests, and therefore, a direction would have to be passed by this Court for early and preferably joint consideration of both IAs.

CONTENTIONS OF RESPONDENT:

10. The learned counsel for the Respondent would contend that this



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Writ Petition seeks to stall legitimate recovery and insolvency proceedings going on in accordance with law, and is an attempt to delay the discharge of lawful debt obligations. It would further be contended that the reliefs sought by the Petitioner are premature, misconceived, and devoid of legal merit, and therefore, this petition is liable to be dismissed *in limine*.

11. The learned counsel for the Respondent would contend that the present Writ Petition is not maintainable, as the Petitioner has an effective and adequate statutory remedy before the DRTs and the NCLT. It would be urged by the learned counsel that the supervisory jurisdiction of this Hon'ble Court under Articles 226 and 227 of the Constitution cannot be invoked to interfere with proceedings lawfully pending before competent forums.

12. The learned counsel for the Respondent would contend that the settlement entered into with the co-guarantor, Mr. Rajiv Mittal, was a lawful commercial arrangement executed in accordance with banking discretion and was duly recorded by order of the DRT on 08.04.2024. It would further be submitted that the said compromise does not, in law or fact, discharge the Petitioner's independent liability as a guarantor, as the guarantees executed by each surety constitute separate and enforceable undertakings.

13. The learned counsel for the Respondent would contend that no prejudice or impairment of the Petitioner's legal rights has occurred as alleged, and that Sections 133, 134, 139 and 141 of the IC Act have no application in the present case.

14. The learned counsel for the Respondent would also submit that the personal insolvency proceeding before the NCLT has been initiated strictly in accordance with Section 95 of the IBC, and is



independent of the recovery proceedings pending before the DRTs, and therefore, the existence of parallel proceedings under distinct statutory frameworks does not amount to illegality or abuse of process.

ANALYSIS:

15. We have heard the learned counsel for the parties and, with their able assistance, carefully perused the pleadings and documents annexed with the Petition.

16. At the outset, we deem it appropriate to examine the maintainability and scope of the present Petition, which does not assail any specific order of the DRT or DRAT but seeks directions for consolidation and expeditious disposal of IAs, as well as for staying the proceedings pending before the NCLT.

17. With regard to the general scope and limits of the High Court's powers and discretion under Articles 226 and 227 of the Constitution in relation to proceedings arising out of the DRT and DRAT, the Hon'ble Supreme Court, in ***M.S. Sanjay v. Indian Bank***⁹, summarized the governing principles for the exercise of such jurisdiction. The relevant paragraphs of the said judgment are extracted below:

“9. It is well settled that interference by the Writ Court for mere infraction of any statutory provision or norms, if such infraction has not resulted in injustice is not a matter of course. In the case of ***Shiv Shanker Dal Mills v. State of Haryana***, (1980) 2 SCC 437, the dealers in that case had paid market fees at the increased rate of 3%, which was raised from the original 2 per cent under Haryana Act 22 of 1977. The excess of 1 per cent over the original rate was declared *ultra vires* by this Court in the case of ***Kewal Krishna Puri v. State of Punjab***, (1980) 1 SCC 416. The excess of 1 per cent over the original rate having been declared *ultra vires*, became refundable to the respective dealers from whom they were

⁹ 2025 SCC OnLine SC 368



recovered by the Market Committee concerned. The demand for refund of the excess amounts illegally recovered from them not having been complied with, the dealers filed Writ Petitions under Article 32 and Article 226 of the Constitution for a direction to that effect to the Market Committee concerned. The Market Committees contended that although the refund of the excess collections might be legally due to the dealers, many of them had in turn recovered this excess percentage from the next purchasers. While disposing of the petition and laying down guidelines, this Court held as under:

“Article 226 grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the court, exercising this flexible power, to pass such order as public interest dictates and equity projects. Courts of equity may, and frequently do, go much further both to give and withhold relief in furtherance of the public interest than they are accustomed to go where only private interests are involved. Accordingly, the granting or withholding of relief may properly be dependent upon considerations as of public interest.”

10. It has been rightly observed that legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal Court of Appeal, which it is not. It is a settled principle of law that the remedy under Article 226 of the Constitution of India is discretionary in nature and in a given case, even if some action or order challenged in the petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties.”

(Emphasis supplied)

18. A three-Judge Bench of the Hon'ble Supreme Court in ***PHR Invent Educational Society v. UCO Bank***¹⁰ emphatically reiterated that the High Courts should ordinarily refrain from entertaining petitions arising from the proceedings under the **Securitisation and**

¹⁰ 2024 SCC OnLine SC 528



Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002¹¹ and the **Recovery of Debts and Bankruptcy Act, 1993¹²**, since both statutes constitute self-contained codes providing efficacious alternative remedies. The Apex Court clarified that the writ jurisdiction may be invoked only in exceptional contingencies such as lack of jurisdiction, violation of fundamental judicial procedure, reliance on repealed provisions, or breach of natural justice. The relevant excerpts of *PHR Invent (supra)* are reproduced herein below for ready reference:

“23. It could thus be seen that, this Court has clearly held that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person. It has been held that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. The Court clearly observed that, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. It has been held that, though the powers of the High Court under Article 226 of the Constitution are of widest amplitude, still the courts cannot be oblivious of the rules of self-imposed restraint evolved by this Court. The Court further held that though the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, still it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution.

24. The view taken by this Court has been followed in *Agarwal Tracom (P) Ltd. v. Punjab National Bank*.

25. In *State Bank of Travancore v. Mathew K.C.*, this Court was considering an appeal against an interim order passed by the High Court in a writ petition under Article 226 of the Constitution staying further proceedings at the stage of

¹¹ SARFAESI

¹² RDB Act



Section 13(4) of the SARFAESI Act. After considering various judgments rendered by this Court, the Court observed thus : (SCC p. 94, para 16)

“16. The writ petition ought not to have been entertained and the interim order granted for the mere asking without assigning special reasons, and that too without even granting opportunity to the appellant to contest the maintainability of the writ petition and failure to notice the subsequent developments in the interregnum. The opinion of the Division Bench that the counter-affidavit having subsequently been filed, stay/modification could be sought of the interim order cannot be considered sufficient justification to have declined interference.”

26. The same position was again reiterated by this Court in **Phoenix ARC (P) Ltd. v. Vishwa Bharati Vidya Mandir**.

27. Again, in **Varimadugu Obi Reddy v. B. Sreenivasulu**⁺ after referring to earlier judgments, this Court observed thus : (SCC pp. 181-82, para 34)

“34. The order of the Tribunal dated 1-8-2019 was an appealable order under Section 18 of the SARFAESI Act, 2002 and in the ordinary course of business, the borrowers/person aggrieved was supposed to avail the statutory remedy of appeal which the law provides under Section 18 of the SARFAESI Act, 2002. In the absence of efficacious alternative remedy being availed, there was no reasonable justification tendered by the respondent borrowers in approaching the High Court and filing writ application assailing order of the Tribunal dated 1-8-2019 under its jurisdiction under Article 226 of the Constitution without exhausting the statutory right of appeal available at its command.”

28. It could thus be seen that this Court has strongly deprecated the practice of entertaining writ petitions in such matters.

29. Recently, in **Celir LLP**, after surveying various judgments of this Court, the Court observed thus : (SCC p. 81, para 101)

“101. More than a decade back, this Court had expressed serious concern despite its repeated pronouncements in regard to the High Courts ignoring the availability of statutory remedies under the RDBFI Act and the SARFAESI Act and exercise of jurisdiction under Article 226 of the Constitution. Even after the decision of this Court in *Satyawati Tondon*, it appears that the High Courts have continued to exercise its writ jurisdiction under Article 226 ignoring the statutory remedies under the RDBFI Act and the SARFAESI Act.”



30. It can thus be seen that it is more than a settled legal position of law that in such matters, the High Court should not entertain a petition under Article 226 of the Constitution particularly when an alternative statutory remedy is available.

37. It could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:

- (i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;
- (ii) it has acted in defiance of the fundamental principles of judicial procedure;
- (iii) it has resorted to invoke the provisions which are repealed; and
- (iv) when an order has been passed in total violation of the principles of natural justice.

38. It has however been clarified that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance.

41. While dismissing the writ petition, we will have to remind the High Courts of the following words of this Court in **Satyawati Tondon** since we have come across various matters wherein the High Courts have been entertaining petitions arising out of the DRT Act and the SARFAESI Act in spite of availability of an effective alternative remedy : (SCC p. 128, para 55)

“55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

42. In the result, we pass the following order:

- (i) The appeal is allowed;



(ii) The impugned order dated 4-2-2022 passed by the High Court in *M.V. Ramana Rao v. UCO Bank* [*M.V. Ramana Rao v. UCO Bank*, 2022 SCC OnLine TS 3479] is quashed and set aside; and

(iii) Writ Petition No. 5275 of 2021 is dismissed with costs quantified at Rs 1,00,000 imposed upon the borrower.”

19. The Hon’ble Supreme Court in *Celir LLP v. Bafna Motors (Mumbai) (P) Ltd.*¹³ reiterated that the High Courts should ordinarily refrain from exercising their writ jurisdiction where effective and efficacious statutory remedies exist, particularly under specialized legislations such as the SARFAESI Act and the RDB Act. Entertaining writ petitions without exhaustion of such remedies not only frustrates the legislative intent but also adversely impacts the recovery rights of banks and financial institutions. The relevant portion of *Celir LLP (supra)* reads as under:

“97. This Court has time and again, reminded the High Courts that they should not entertain petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person under the provisions of the SARFAESI Act. This Court in *United Bank of India v. Satyawati Tondon*, (2010) 8 SCC 110 made the following observations: (SCC pp. 123 & 128, paras 43-45 & 55)

“43. Unfortunately, the High Court [*Satyawati Tondon v. State of U.P.*, 2009 SCC OnLine All 2608] overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal

¹³ 2023 SCC OnLine SC 1209.



of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance.

55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

100. In *Varimadugu Obi Reddy v. B. Sreenivasulu*, (2023) 2 SCC 168, it was held as under: (SCC p. 183, para 36)

“36. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of pre-deposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such



practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated under the second proviso to Section 18 of the 2002 Act.”

101. More than a decade back, this Court had expressed serious concern despite its repeated pronouncements in regard to the High Courts ignoring the availability of statutory remedies under the RDBFI Act and the SARFAESI Act and exercise of jurisdiction under Article 226 of the Constitution. Even after, the decision of this Court in **United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110**, it appears that the High Courts have continued to exercise its writ jurisdiction under Article 226 ignoring the statutory remedies under the RDBFI Act and the SARFAESI Act.”

20. A similar position of law prevails in respect of proceedings before the NCLT as well. The Hon’ble Supreme Court has consistently deprecated the practice of High Courts interfering with proceedings under the IBC. In **Mohd. Enterprises (Tanzania) Ltd. v. Farooq Ali Khan¹⁴**, the Apex Court observed and held as under:

“**13.** The jurisdiction and power of the Adjudicating Authority under section 60(5)(c) has already been reiterated by this court in **Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, (2020) 8 SCC 531**, and **Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta, (2021) 7 SCC 209**. It is important to note that corporate insolvency resolution proceedings commenced on October 26, 2018, six years ago, and the resolution plan of the appellant was approved in 2020, four years back. The importance of concluding the corporate insolvency resolution proceedings was highlighted by this court, on a number of occasions [**State Bank of India v. Consortium of Murari Lal Jalan and Florian Fritsch, 2024 SCC OnLine SC 3187 paragraphs 151 and 152.**]. In a recent order in **Committee of Creditors of KSK Mahanadi Power Co. Ltd. v. Uttar Pradesh Power Corporation Ltd. 2024 SCC OnLine SC 4013**, this court has observed that an unjustified interference with the proceedings initiated under the Insolvency and Bankruptcy Code, 2016, breaches the discipline of law.

14. In view of the delay in approaching the High Court, particularly when respondent No. 1 himself has initiated

¹⁴ 2025 SCC OnLine SC 23



proceedings under the Code by filing interlocutory applications seeking similar relief, we are of the opinion that the High Court committed an error in entertaining the writ petition.

15. Apart from delay and laches, the High Court should have noted that Insolvency and Bankruptcy Code is a complete code in itself, having sufficient checks and balances, remedial avenues and appeals. Adherence of protocols and procedures maintains legal discipline and preserves the balance between the need for order and the quest for justice. The supervisory and judicial review powers vested in High Courts represent critical constitutional safeguards, yet their exercise demands rigorous scrutiny and judicious application. This is certainly not a case for the High Court to interdict the corporate insolvency resolution proceedings under the Insolvency and Bankruptcy Code.

16. In view of the above, we allow these appeals and set aside the final judgment and order passed by the High Court in Writ Petition No. 483 of 2023 (GM-RES) dated April 22, 2024. We further direct that the Adjudicating Authority will now commence the proceedings from where it was interdicted by the High Court and complete the same as expeditiously as possible, which is also the spirit of the Code.”

21. It is, therefore, a well-settled and consistently affirmed principle of law that the High Courts should ordinarily refrain from invoking their extraordinary jurisdiction under Articles 226 and 227 of the Constitution where an effective and efficacious alternative remedy is available to the aggrieved party, and particularly where proceedings are already pending before the concerned Tribunal. Judicial interference in such matters is justified only in narrowly defined exceptional circumstances, *namely*, when the Tribunal has acted wholly without jurisdiction, in patent violation of the principles of natural justice, or where the statutory remedy is illusory or inefficacious. Save in such exceptional cases, a writ petition impugning orders or seeking directions in respect of proceedings before statutory tribunals, including the DRT or NCLT, particularly in matters governed by the SARFAESI Act, RDB Act, or IBC, may not



be maintainable.

22. Keeping these principles in mind, we propose to examine the facts and circumstances as alleged by the Petitioner, leading to the filing of the present Writ Petition.

23. The foremost aspect that arises for consideration is that the present Petition does not assail any specific order passed by the DRT. Instead, the Petitioner seeks a direction for expeditious adjudication of the IAs pending before the concerned DRTs and, preferably, after their consolidation, wherein he has sought discharge from his liability as a guarantor and release of the mortgaged property.

24. On this count, we are constrained to observe that the Petition constitutes a clear abuse of the process of law. The Petitioner's grievance appears to stem from the fact that a co-guarantor has already been discharged by the concerned DRT pursuant to a settlement with Respondent No. 1, whereas his own IAs have been pending adjudication at least since April 2024.

25. To substantiate his claim, the Petitioner has selectively placed on record certain orders passed by the DRT, in one of the IAs, during the year 2024. However, upon perusal of the order sheets and proceedings available on the official website of the DRT, it becomes evident that, despite the matter having been listed on multiple occasions, the Petitioner has made no discernible effort to press for expeditious hearing or disposal of his IAs. There is nothing on record to indicate that any application for early hearing was filed or that any oral request to that effect was made before the DRT. On the contrary, the record discloses that on a few occasions, the Petitioner's counsel either sought adjournments or remained absent.

26. Having shown no diligence or urgency before the concerned



DRT, the Petitioner cannot now seek intervention of this Court under Articles 226 and 227 of the Constitution. The Petitioner could very well have taken appropriate steps before the DRT for early disposal and, if aggrieved by any inaction or order, he had an efficacious statutory remedy by way of an appeal to the DRAT under Section 20 of the RDB Act.

27. Insofar as the consolidation of the TAs pending before different DRTs, or the joint adjudication of the Petitioner's IAs, is concerned, the RDB Act and the SARFAESI Act themselves provide specific and adequate mechanisms for transfer and consolidation of proceedings, wherever a proper case is made out before the competent forum. Despite the availability of these efficacious statutory remedies, the Petitioner has chosen not to invoke or exhaust any of them. Instead, the Petitioner seeks, through the writ jurisdiction, to secure a relief that squarely falls within the domain of the fora where the matters are already pending. We are of the view that, in exercise of our jurisdiction under Articles 226 and 227 of the Constitution, and having regard to the facts of the present case, there is no justification to grant a relief that was never sought before the competent forum in the first instance. Such an attempt to bypass the statutory scheme is impermissible and warrants rejection at the threshold.

28. The Petitioner's further grievance that his co-guarantor has been discharged by DRT-III *vide* order dated 08.04.2024, after settlement with Respondent No. 1, whereas proceedings against him continue, is equally misconceived. His plea that such continuation violates the provisions relating to surety and guarantee under the IC Act, cannot be entertained in the present proceedings. The Petitioner, if aggrieved by the Order dated 08.04.2024 passed by the DRT-III, could have availed



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of the statutory appellate remedy available under the statute, but has not done so.

29. Likewise, the Petitioner's prayer for stay of the IBC proceedings pending before the NCLT against him, is devoid of merit. No material has been placed on record to show the scope, stage, or nature of the said proceedings, or whether any corresponding prayer has been made before the NCLT itself. The mere allegation of possible overlapping or contradictory decisions between the NCLT and DRTs, without substantiating facts or pleadings, cannot justify the invocation of this Court's writ jurisdiction.

30. We are also of the view that the NCLT, being a statutory forum under the IBC, is fully empowered to take all necessary measures within its jurisdiction. If the Petitioner was aggrieved by any step taken therein, he had an adequate appellate remedy before the National Company Law Appellate Tribunal. The Petitioner, however, has failed to demonstrate that he has taken any steps before either of those forums, thereby rendering his present plea wholly untenable.

31. The Petitioner's contention that simultaneous proceedings arising out of the same debt, transaction, or dispute would result in contradictory findings is also completely misconceived.

32. Proceedings under the SARFAESI Act or the RDB Act and those under the IBC operate within distinct statutory frameworks, each serving separate purposes, being governed by independent procedural mechanisms. Once proceedings under the IBC are admitted by the Adjudicating Authority against an entity or individual, a statutory moratorium automatically comes into effect, during which proceedings before other fora cannot continue. Accordingly, the apprehension of conflicting findings or parallel adjudication is wholly



unfounded.

33. If the IBC proceedings against the Petitioner have been duly admitted by the NCLT in accordance with law, they shall necessarily proceed in terms of the statutory mandate. Conversely, if the Petitioner's contentions bear merit and the said proceedings are found to be in violation of the statutory scheme, the Petitioner is well within his right to raise appropriate objections before the NCLT and, if aggrieved, to avail of the appellate remedies as provided under the IBC. In such an eventuality, and subject to the outcome thereof, only the proceedings before the DRT would ultimately survive in accordance with law.

34. In a similar factual scenario, the Hon'ble Supreme Court, in ***Bank of Baroda v. Farooq Ali Khan***¹⁵, deprecated the interference of the High Court in ongoing proceedings before the NCLT under the IBC, after considering the relevant provisions. The relevant portion of the said judgment reads as under:

“2. The question for our consideration is whether the High Court could have justifiably invoked judicial review under article 226 of the Constitution to interdict personal insolvency proceedings initiated against respondent No. 1 under section 95 of the Insolvency and Bankruptcy Code, 2016 [Hereinafter the “IBC”.] by holding that his liability as a debtor has been waived. The High Court jurisdiction was invoked against the order of the Adjudicating Authority dated February 16, 2024 appointing a resolution professional and directing him to examine the application under section 95 and file a report under section 99 of the Insolvency and Bankruptcy Code, 2016. Having considered the facts, legal submissions, and for the reasons to follow, we set aside the judgment and order passed by the High Court and restore the proceedings before the Adjudicatory Authority from the time of its order dated February 16, 2024 directing the resolution professional to submit a report as provided under section 99 of the Insolvency and Bankruptcy Code, 2016.

¹⁵ 2025 SCC OnLine SC 374



4. After issuing a demand notice in form B under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 [Hereinafter the “Rules”.] on February 22, 2021, the appellant filed an application under section 95(1) of the Insolvency and Bankruptcy Code, 2016 read with rule 7(2) of the Rules to initiate personal insolvency proceedings against respondent No. 1.

5. The Adjudicating Authority, by order dated February 16, 2024, appointed a resolution professional and directed him to examine the application and submit his report as provided in section 99 of the Insolvency and Bankruptcy Code, 2016 for approval or rejection of the application. On objections raised by respondent No. 1 on limitation and the validity and existence of the personal guarantee, the Adjudicating Authority, relying on the judgment of this court in ***Dilip B. Jiwrajka v. Union of India* 2023 SCC OnLine SC 1530**, stated that “the issue/objections raised by learned counsel for the personal guarantor will be considered after the submission of the report by the resolution professional and response of the personal guarantor on the same”.

8. The simple question for our consideration is whether the High Court correctly exercised its writ jurisdiction to interdict the personal insolvency proceedings under the Insolvency and Bankruptcy Code against respondent No. 1. It is necessary to appreciate the statutory scheme regarding the admission of an application for initiating personal insolvency under Part III, Chapter III of the Insolvency and Bankruptcy Code. This court in ***Dilip B. Jiwrajka v. Union of India* 2023 SCC OnLine SC 1530**, while deciding the constitutional validity of sections 95 to 100, has delved into the same and has held as follows. Pursuant to an application for initiating personal insolvency proceedings under section 94 or 95, the Adjudicating Authority appoints a resolution professional under section 97. The resolution professional performs distinct functions under Part II (dealing with corporate insolvencies) and Part III (dealing with personal insolvencies) of the Insolvency and Bankruptcy Code [***Dilip B. Jiwrajka v. Union of India* 2023 SCC OnLine SC 1530, paragraph 50**]. Under Part III, Chapter III, the resolution professional performs a facilitative role of collating information, as provided under section 99 of the Insolvency and Bankruptcy Code, 2016, in which the resolution professional examines the application, determines whether the debt has been repaid, and submits a report to the Adjudicating Authority recommending the admission or rejection of the application [*Ibid*, paragraphs 54 and 55.]. It is only after the submission of this report that the Adjudicating Authority's adjudicatory functions commence under section 100. At this stage, the Adjudicating Authority



determines whether to admit or reject the application for initiating insolvency [Ibid, paragraphs 60 and 74.]. These principles have been summarised as follows [See page 397 of 242 Comp Cas.]:

“No judicial adjudication is involved at the stages envisaged in sections 95 to 99 of the Insolvency and Bankruptcy Code, 2016;...

The submission that a hearing should be conducted by the Adjudicatory Authority for the purpose of determining ‘jurisdictional facts’ at the stage when it appoints a resolution professional under section 97(5) of the Insolvency and Bankruptcy Code, 2016 is rejected. No such adjudicatory function is contemplated at that stage. To read in such a requirement at that stage would be to rewrite the statute which is impermissible in the exercise of judicial review;...

No judicial determination takes place until the Adjudicating Authority decides under section 100 whether to accept or reject the application. The report of the resolution professional is only recommendatory in nature and hence does not bind the Adjudicatory Authority when it exercises its jurisdiction under section 100.”

9. The Adjudicating Authority, by its order dated February 16, 2024, has followed the procedure envisaged under sections 95 to 100 of the Insolvency and Bankruptcy Code, 2016, and has also relied on the aforesaid principles in ***Dilip B. Jiwrajka v. Union of India* 2023 SCC OnLine SC 1530**, paragraph 50. It specifically observed that respondent No. 1's objections regarding limitation and waiver of the guarantee will be considered once the resolution professional submits his report. This is the correct approach as the appointment of a resolution professional, at the very threshold, is statutorily mandated under section 97 of the Insolvency and Bankruptcy Code, 2016. As has been held by this court in ***Dilip B. Jiwrajka v. Union of India* 2023 SCC OnLine SC 1530**, the Adjudicating Authority does not adjudicate any point at this stage and need not decide jurisdictional questions regarding existence of the debt before appointing the resolution professional [Ibid, paragraphs 72, 86.1 and 86.3.]. This is because section 99 requires the resolution professional to, at the first instance, gather information and evidence regarding repayment of the debt, and ascertain whether the application satisfies the requirements of section 94 or 95 of the Insolvency and Bankruptcy Code, 2016. The existence of the debt will first be examined by the resolution professional in his report, and will then be judicially examined by the Adjudicating Authority when it decides whether to admit or reject the application under section 100 [Ibid, paragraph 74.].

10. In light of this statutory scheme, which has been followed by the Adjudicating Authority, we are of the view that the High Court



incorrectly exercised its writ jurisdiction as: first, it precluded the statutory mechanism and procedure under the Insolvency and Bankruptcy Code, from taking its course, and second, to do so, the High Court arrived at a finding regarding the existence of the debt, which is a mixed question of law and fact that is within the domain of the Adjudicating Authority under section 100 of the Insolvency and Bankruptcy Code, 2016 [Ibid.].

11. It is well-settled that when statutory Tribunals are constituted to adjudicate and determine certain questions of law and fact, the High Courts do not substitute themselves as the decision-making authority while exercising judicial review [*Thansingh Nathmal v. Superintendent of Taxes*, AIR 1964 SC 1419, paragraph 7; *United Bank of India v. Satyawati Tondon*, 2010 SCC OnLine SC 776, paragraphs 43, 45; *CIT v. Chhabil Dass Agarwal*, 2013 SCC OnLine SC 717, paragraph 15; *South Indian Bank Ltd. v. Naveen Mathew Philip*, 2023 SCC OnLine SC 435, paragraph 14.]. In the present case, the proceedings had not even reached the stage where the Adjudicatory Authority was required to make such determination. Rather, the High Court exercised jurisdiction even prior to the submission of the resolution professional's report, thereby precluding the Adjudicating Authority from performing its adjudicatory function under the Insolvency and Bankruptcy Code, 2016.

12. While there is no exclusion of power of judicial review of the High Courts, and the limits and restraint that the constitutional court exercises and must exercise are well articulated [*Whirlpool Corporation v. Registrar of Trade Marks*, (1998) 8 SCC 1, paragraph 15; *Harbanslal Sahnia v. Indian Oil Corporation Ltd.*, (2003) 2 SCC 107, paragraph 7.], the primary issues involved in the present case, including the factual determination of whether the debt exists, is part of the statutory and regulatory regime of the Insolvency and Bankruptcy Code. In fact, the entire rationale behind appointing a resolution professional under section 97 is to facilitate this determination by the Adjudicating Authority. The High Court ought not to have interdicted the proceedings under the statute and assumed what it did while exercising jurisdiction under article 226 of the Constitution [See *Union of India v. V.N. Singh*, (2010) 5 SCC 579; *Executive Engineer, Southern Electricity Supply Company of Orissa Ltd. (SOUTHCO) v. Sri Seetaram Rice Mill*, (2012) 2 SCC 108, paragraph 80; *Radha Krishan Industries v. State of Himachal Pradesh*, (2021) 6 SCC 771, paragraph 27.6.]. In this view of the matter, we are of the opinion that the High Court was not justified in allowing respondent No. 1's writ petition. The High Court should have permitted the statutory process through the resolution professional and the Adjudicating Authority to take its course.



13. In **Mohammed Enterprises (Tanzania) Ltd. v. Farooq Ali Khan**; 2025 SCC OnLine SC 23, while setting aside the judgment of the same High Court interfering with the corporate insolvency resolution process proceedings against the same corporate debtor, we expressed the same principle in the following terms [See page 351 of 257 Comp Cas.]:

... the High Court should have noted that Insolvency and Bankruptcy Code is a complete code in itself, having sufficient checks and balances, remedial avenues and appeals. Adherence of protocols and procedures maintains legal discipline and preserves the balance between the need for order and the quest for justice. The supervisory and judicial review powers vested in High Courts represent critical constitutional safeguards, yet their exercise demands rigorous scrutiny and judicious application. This is certainly not a case for the High Court to interdict corporate insolvency resolution process proceedings under the Insolvency and Bankruptcy Code.”

14. In view of the above reasons, we allow the present appeal and set aside the impugned order dated May 28, 2024 [**Farooq Ali Khan v. Bank of Baroda**, 2024 SCC OnLine Kar 90.] by the Karnataka High Court in Writ Petition No. 6288 of 2024 (GM-RES). Consequently, the appellant's application in C.P. (IB) No. 139/BB of 2022 is restored to the record of the National Company Law Tribunal, Bengaluru, and it shall proceed from the stage of passing of the order dated February 16, 2024. Considering the fact that the matter has been pending since 2021, we request the Tribunal to decide the same as expeditiously as possible.”

35. Through the present petition, the Petitioner seeks an interdiction by this Court of proceedings pending before the NCLT under the IBC, which is a complete code in itself. Granting such relief is impermissible, as it would amount to judicial interference with the statutory framework enacted under the IBC. On this ground as well, the Petition is liable to be rejected.

36. At this stage, we are constrained to take serious note of the conduct and procedural misadventure of the Petitioner in the present proceedings before us. The present Writ Petition was instituted and first listed before us on 13.08.2025. At the very outset, when the



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Bench expressed its reservations regarding the maintainability of the Petition, learned counsel for the Petitioner sought to question the very jurisdiction of this Bench to entertain the matter, contending that the same ought to have been listed before a Single Judge rather than before this Division Bench. On that premise, he sought time to file an appropriate application raising such an objection.

37. Pursuant thereto, the Petitioner filed **C.M. Application No. 66877/2025** in the present Writ Petition, seeking the following reliefs:

“In light of the above facts and legal position, it is most respectfully prayers that this Hon'ble Court may be pleased to:

- a. Transfer this Petition [W.P(C) No. 12184 of 2025, titled Sanjeev Krishan Sharma v. Punjab National Bank & Anr.], from the Division Bench to the appropriate Single Bench of this Hon'ble Court, in exercise of powers under Article 215 of the Constitution of India read with Sections 7 and 10 of the Delhi High Court Act, 1966, and in conformity with the roster allocation dated 08.09.2025; and
- b. Pass such other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.”

38. It is an undisputed fact that the substantive prayers in the Writ Petition pertain to proceedings before the DRTs. The sitting roster of this Court, at the relevant time, effective from 12.08.2025, assigned the following categories of cases to this Bench:

DB-VIII Hon'ble Mr. Justice Anil Kshetarpal Hon'ble Mr. Justice Harish Vaidyanathan Shankar	1. Appeals against the orders of the Family Courts. 2. Regular First Appeals (Original Side). 3. Execution First Appeals (Original Side). 4. First Appeals from Orders (Org. Side). 5. Regular First Appeals from orders of Copyright Board. 6. RERA Appeals. 7. <u>Writ Petitions (AIFR, BIFR, DRT, DRAT & Lokayukta).</u> 8. Writ Petitions relating to MTNL, MCD & NDMC. 9. Letters Patent Appeals upto the years 2017 and LPA (other than service matters) of years 2018,
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	2019, 2020, 2021, 2022 and 2023. 10.Company Appeals. 11. Matters to be heard by Commercial Appellate Division. 12.Regular hearing matters of the above categories.
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39. It is manifest from Item No. 7 of the above roster that all matters pertaining to the DRT, DRAT, and some other forums are specifically allocated to this Bench. The Petitioner has not challenged the validity, legality, or authority of the said roster in any manner. Consequently, there exists no basis, either in law or in fact, for the transfer sought.

40. Such an attempt, therefore, appears to be a calculated effort to engage in forum shopping, evidently motivated by an apprehension of an unfavourable outcome rather than by any legitimate grievance as to jurisdiction. Such conduct strikes at the very root of the judicial process and must be deprecated in the strongest terms.

CONCLUSION:

41. In view of the foregoing discussion, we are of the firm opinion that the present writ petition is misconceived. The Petitioner has failed to demonstrate any violation of fundamental rights, statutory mandate, or principles of natural justice that would warrant the invocation of the extraordinary jurisdiction of this Court under Articles 226 and 227 of the Constitution.

42. The conduct of the Petitioner in filing the present Petition, followed by a frivolous application seeking transfer of the matter from a duly constituted Division Bench to a Single Bench, is a blatant abuse of the process of law. It reflects not only procedural impropriety but also an attempt to manipulate the forum of adjudication. Such practice



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cannot be countenanced, for it undermines the integrity of the judicial process. The Petition, therefore, deserves to be dismissed with costs.

43. Considering the overall facts, circumstances, and the conduct of the Petitioner throughout, we deem it appropriate to impose costs of **Rs. 1,00,000/- (Rupees One Lakh only)** upon the Petitioner, to be deposited in favour of the **Poor Patients' Fund under the aegis of All India Institute of Medical Sciences (AIIMS), New Delhi**, within two weeks from today. In case of default, the Registry is directed to list the matter before this Court after the expiry of two weeks for passing appropriate orders in this regard.

44. The Writ Petition, along with pending applications, is accordingly dismissed in the above terms.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
NOVEMBER 21, 2025/sm/kr