



NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

5. IA/4216/2025 C.P. (IB)/218(MB)2025

IN THE MATTER OF

Central Bank Of India Limited

Vs

SVP Textiles Ventures Private Limited

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 21.04.2026

CORAM:

SH. NILESH SHARMA
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Petitioner:

For the Respondent: Adv. Mahesh Nulolu i/b Adv. Avinash Khanolkar (VC)

ORDER

IA/4216/2025: The above IA is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-

CHARANJEET SINGH GULATI
Member (Technical)

Sd/-

NILESH SHARMA
Member (Judicial)

// Tausif//



**NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, V**

IA (IBC) NO. 4216 OF 2025

IN

CP (IB) NO. 218/MB/2025

IN THE MATTER OF

Ms. Usha

Maliyo ki ugni bas, Ward No- 20, Pipar City,
Jodhpur, Rajasthan, 342601

... Applicant

Versus

Mr. Rakesh Kumar Tulsyan,

Interim Resolution Professional for SVP Textiles
Ventures Private Limited

B-4, Vinay Tower, Kranti Nagar, Lokhandwala,
Kandivali East, Mumbai- 400101– 400018

**... Respondent No. 1/ Resolution
Professional**

Indian Overseas Bank

Having its Asset Recovery Management Branch:
On the 5111 Floor, Maker, Tower- E, Cuffe
Parade, Mumbai- 400005

... Respondent No. 2

**Srivallabh Pittie South West Industries
Limited (Borrower)**

Represented through its Resolution Professional,
Avil Jerome Menezes



IA (IBC) NO. 4216 OF 2025 IN CP (IB) NO. 218/MB/2025

Maker Tower- E Wing, 5th Floor, Cuffe Parade,
Mumbai- 400001

... Respondent No. 3

**IN THE ORIGINAL MATTER OF
Central Bank of India Limited**

... Financial Creditor

Versus

SVP Textiles Ventures Private Limited

... Corporate Debtor

Order Delivered on: 21.04.2026

Coram:

Sh. Nilesh Sharma Hon'ble Member (Judicial)

Sh. Charanjeet Singh Gulati, Hon'ble Member (Technical)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant: Adv. Akshay Petkar a/w Adv. Supriya Majumdar Adv.
Shaumil Deb (PH)

For the Respondent No. 1: Adv. Avinash Khanokar a/w Adv. Mahesh Kumar
T. Nulolu (R-1) (PH)

For the Respondent No. 3: Adv. Dhruvad Vaghani a/w Adv. Kamakshi
i/b Anchorstone Legal (R-3) (VC)

ORDER

IA (IBC) NO. 4216 OF 2025

1. The present IA dated 19.08.2025 has been filed by Ms. Usha ('the **Applicant**'), under Section 60(5) of the of the Insolvency and Bankruptcy Code, 2016 ('**IBC/the Code**') with the following prayers:



- a) *Declare that the right, title and interest of the property being, industrial land in its name located at Khasra No. 652/1 admeasuring about 13 Bigha 7 Biswa, 10 Biswanshi and Khasra No. 652 (min) admeasuring about 8 Bigha situated at Village Khejaria, tehsil Bilsara, District Jodhpur has passed from the Corporate Debtor to the Applicant prior to commencement of the Corporate Insolvency Resolution Process and the Corporate Debtor;*
- b) *Direct the Respondent No. 1 to exclude the property being, industrial land in its name located at Khasra No. 652/1 admeasuring about 13 Bigha 7 Biswa, 10 Biswanshi and Khasra No. 652 (min) admeasuring about 8 Bigha situated at Village Khejaria, tehsil Bilsara, District Jodhpur from the Corporate Insolvency Resolution Process of the Corporate Debtor and from the Information Memorandum and from any other document relating to the Corporate Insolvency Resolution Process of the Corporate Debtor;*
- c) *Pass such other or further orders as tllis Hon'ble Tribunal may deem fit and proper in the interest of justice.*

Particulars of the Parties:

2. The Applicant, Ms. Usha claims itself to be a bona fide purchaser who emerged successful in a public e-auction conducted by Indian Overseas Bank.
3. The Respondent No.1, Mr. Rakesh Kumar Tulsyan is the Interim Resolution Professional appointed under the Code in respect of M/s SVP Textiles Ventures Pvt. Ltd (**‘Corporate Debtor’**).



4. The Respondent No. 2 is Indian Overseas Bank, a secured creditor and a member of the Committee of Creditors of the Corporate Debtor.
5. Respondent No. 3 is the borrower who had availed loan facilities from the Respondent No. 2 bank in respect of which the Corporate Debtor has executed Corporate Guarantee and had further mortgaged its asset in question.

Brief Facts of the Application:

6. Respondent No. 3 namely, M/s. Srivallabh Pittie South West Industries Limited, availed credit working capital term loan facility aggregating Rs. 63 Crores from Respondent No. 2 from 2011 to 2020. The Corporate Debtor stood as a corporate Guarantor for the said loans and created 1st pari passu charge on the *industrial land in its name located at Khasra No. 652/1 admeasuring about 13 Bigha 7 Biswa, 10 Biswanshi and Khasra No. 652 (min) admeasuring about 8 Bigha situated at Village Khejaria, tehsil Bilsara, District Jodhpur ('said property')* to secure the loan. Thereafter, upon default by the Respondent No. 3 in repayment of loans, the Respondent No. 2 issued demand notice dated 24.11.2022 under Section 13(2) of the SARFAESI Act.
7. The Applicant submits that the Respondent No. 2 took over the possession of the said property vide notice dated 30.06.2023 under Section 13(4) of the SARFAESI Act read with Rule 8 of the Security Interest (Enforcement) Rules, 2002 ('the **SARFAESI Rules**').
8. Further, Respondent No. 2 initiated proceedings under Section 7 of the Code against the Respondent No. 3 (Borrower). Vide order 10.10.2023, Corporate Insolvency Resolution Process ('**CIRP**') against the Respondent No. 3 was initiated and Mr. Avil Menezes was appointed as the Interim



Resolution Professional ('**IRP**'). The said order was challenged before the Hon'ble NCLAT vide Company Appeal (AT) (Insolvency) No. 1401 of 2023 which was dismissed vide order dated 10.05.2024.

9. The Applicant submits that the Respondent No. 2 conducted the first round of auction under the SARFAESI Act in respect of the secured assets belonging to the guarantors including the said property belonging to the Corporate Debtor vide e-auction notice dated 11.12.2023. No bids were received in response to the auction notice dated 11.12.2023. Subsequently, another e-auction notice dated 12.11.2024 was issued by the Respondent No. 2 and auction was scheduled to take place on 04.12.2024 on "as is where is" and "as is whatever is" basis. The Reserve price of the said property was fixed at Rs. 93,78,500/-.
10. The Applicant participated in the said public e-auction conducted by the Bank and deposited the Earnest Money Deposit of 10% of the Reserve Price. On 04.12.2024, the Applicant submitted her bid of Rs. 1,26,78,500/- and was declared the successful bidder and was issued a Sale Intimation Letter dated 06.12.2024, calling upon to deposit the balance sale consideration. Further, the Applicant paid 25% of the bid amount on 05.12.2024 equivalent to Rs. 22,31,775/- and further sum of Rs. 15,00,000/- on 07.12.2024.
11. The Applicant submits that the Corporate Debtor and Respondent No. 3 moved I.A. No. 2346 of 2024 before the DRT, seeking urgent stay on the e-auction. The Ld. Presiding Officer vide order dated 09.12.2024 granted stay on the issuance of Sale Certificate in respect of the proposed sale. Further, the said order was not brought to the knowledge of the Applicant and the Applicant continued making payments and one tranche was paid even on 09.12.2024.



12. It is submitted that, in compliance with Rule 9(4) of the **SARFAESI Rules**, the Applicant remitted the remaining sale consideration by 13.12.2024 and the Respondent No. 2 acknowledged receipt of the same vide email dated 16.12.2024.
13. On 16.12.2024, the Corporate Debtor and Respondent No. 3 moved the Securitisation Application to seek stay on the issuance of sale certificate and later was granted the interim relief and the issuance of Sale Certificate to the Applicant was stayed until the next date.
14. The Applicant, vide email dated 26.12.2024, requested issuance of the Sale Certificate. In February 2025, Respondent No. 2 informed her of the pendency of the Securitization Application before the DRT and the stay on issuance, while assuring that necessary steps were being taken. Thereafter, through her Advocate, the Applicant addressed a letter dated 22.04.2025 calling upon the Bank to issue the Sale Certificate, but received no response. She was subsequently informed that the matter was listed on 24.04.2025, partly heard, and adjourned to 07.05.2025.
15. Perusal of the DRT order sheets reflect that the Applicants in S.A. No. 15/2024, after obtaining a stay on issuance of Sale Certificate, remained absent or sought adjournments citing Section 95 of the code proceedings against the guarantors. As details were unclear, the Applicant sought relevant documents from Respondent No. 2 vide emails dated 09.06.2025 and 12.06.2025, but received no response and was informed that, not being a party, the documents could not be shared. It was subsequently learnt from the public domain that CIRP of the Corporate Debtor commenced pursuant to order dated 09.05.2025. The Applicant thereafter sought clarification from Respondent No. 1 vide emails dated 22.07.2025 and 23.07.2025,



furnished all relevant sale documents and judgments regarding vesting of title upon confirmation of sale, and was later informed that the property had been included in the CIRP.

16. Further, the Respondent No. 2 bank, approached the Hon'ble Bombay High Court to challenge orders dated 09.12.2024 and 16.12.2024 of the DRT in W.P. No. (L) 8630/2025 which was disposed off as withdrawn on 17.03.2025 with the liberty to challenge the same before the Hon'ble DRAT. The Applicant submits that she received a copy of an appeal filed by the Respondent No. 2 before the Hon'ble DRAT.

17. It is submitted that the Applicant availed a friendly loan to purchase the property and paid the entire consideration more than eight months ago; however, due to mala fide proceedings initiated by Respondent No. 3 and the Corporate Debtor, she has been unable to utilize the property and continues to suffer financial loss. If the property is included in the Information Memorandum and CIRP proceeds, the Applicant will face grave and irreparable prejudice, including the risk of losing her property and being compelled to immediately repay the loan without clarity on adjudication of her rights.

18. The present Application has been filed, inter alia, on the following grounds:

a. Closure of right of redemption of Corporate Debtor

Pursuant to the amended Section 13(8) of the SARFAESI Act, the borrower's right of redemption stands extinguished upon publication of the public auction notice. In the present case, sale notices were published on 11.12.2023 and 12.11.2024; consequently, the Corporate Debtor's right to redeem the property stood extinguished on such publication. Thereafter, neither the



Corporate Debtor nor any prospective Resolution Applicant could redeem the property.

b. Effect of payment of sale consideration and sale confirmation

Under Section 13(4) of the SARFAESI Act read with Rules 9(3) and 9(4), upon full payment of the sale consideration, the sale stands confirmed and the secured creditor is bound to issue a Sale Certificate under Rule 9(6). The Applicant submits that she paid the entire sale consideration by 13.12.2024, duly confirmed by the Respondent Bank on 16.12.2024. The CIRP commenced nearly five months thereafter, and despite the Resolution Professional being apprised of these facts, there is no justification to include the said property in the CIRP, to the prejudice of the Applicant's statutory rights.

c. Grounds for challenge of concluded sale under SARFAESI Act are very limited

The Applicant submits that a concluded statutory sale can be set aside only upon strict proof of material irregularity causing grave prejudice, fraud, or collusion. S.A. No. 15 of 2024 discloses no such grounds, yet a stay on issuance of the Sale Certificate was granted. The proceedings appear to have been pursued merely to obtain the stay and delay the Applicant's possession and enjoyment of the property.

d. Properties that can be included in the CIRP:

It is stated that Section 18(f) of the Code permits the Resolution Professional to take control of assets owned by the Corporate Debtor. Further, under Regulations 36 and 37 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations,



2016 ('CIRP Regulations 2016'), only assets owned as on the insolvency commencement date can form part of the Information Memorandum and Resolution Plan. additionally, Section 238 of the Code is applicable only if a sale has not commenced prior to CIRP. Here, the said property cannot be included as sale commenced and confirmed prior to the CIRP commencement. Accordingly, the said property must be excluded from the resolution process.

19. In support of their submissions, the Applicant relied upon the following judgements of Hon'ble Supreme Court, Hon'ble High Court and Hon'ble NCLAT:

- i. *Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd. & Ors* 2023 SCC OnLine SC 1209
- ii. *B. Arvind Kumar v. Govt. of India*, (2007) 5 SCC 745
- iii. *Zakir Hussain v. Authorized Officer, Canara Bank (Hon'ble High Court, Madras)*
- iv. *Celir LLP v. Sumati Prasad Bafna & Ors* (2024) *ibclaw.in* 319 SC
- v. *Unity Small Finance Bank Limited v. Suraksha Asset Reconstruction Ltd. & Anr* (2025) *ibclaw.in* 559 NCLAT
- vi. *Nagpur Nagrik Sahakari Bank Ltd. v. Mohanlal Ayaapan Pillai and Ors* (2025) *ibclaw.in* 381 NCLAT

Submission of Respondents, in Brief:

20. Respondent No. 1 and Respondent No. 2 have filed separate replies. Vide daily order dated 17.02.2026 in the present IA, it is recorded that no reply has been filed on behalf of Respondent No. 3. In view of the earlier order dated 06.01.2026, it is presumed that Respondent No. 3 is not inclined to file any reply in the present matter.



Reply of Respondent No. 1

21. The Respondent No.1 submits that the Corporate Debtor provided the said Property as collateral Security to secured Credit Facilities availed by the Respondent No. 3. When the Respondent No. 3 defaulted in repayment, the Respondent No. 2 called for an Auction of the said property and thereafter, the Applicant participated in the said auction and declared as Successful Bidder. Further, the Applicant remitted the entire bid amount to the Respondent No. 2 in terms of the SARFAESI Rules.
22. It is stated that for the reasons being averred in the Application, as the Sale Certificate is not issued in favour of the Applicant by the Respondent No. 2, the Asset still holds in name of the Corporate Debtor and hence the same is in Asset pool of the Corporate Debtor.
23. The Respondent No. 1 oppose the Application on the following grounds:
- a. No Jurisdiction of the Tribunal**
 - i. The Application pertains to events prior to the commencement of CIRP and does not arise out of or relate to CIRP or liquidation; hence, it is not maintainable under Section 60(5) of the Code.
 - ii. The non-issuance of the Sale Certificate arises from the Interim Order dated 09.12.2024 passed by the Ld. DRT, Mumbai, and the Miscellaneous Appeal No. 450/2025 filed before the Hon'ble DRAT, Mumbai, which is pending adjudication. As the issues raised are already under consideration before a competent court, this Tribunal's jurisdiction cannot be invoked to overreach the jurisdiction of the Hon'ble DRAT.



b. Sale is Incomplete

- i. Under Rule 9(6) of the SARFAESI Rules, a sale is complete only upon issuance of the Sale Certificate. In the present case, as no Sale Certificate has been issued, the sale remains incomplete. The 2016 amendment to Section 13(8) merely advances the extinguishment of the right of redemption and does not divest ownership, which continues to vest with the Corporate Debtor until lawful issuance of the Sale Certificate.
- ii. Upon commencement of CIRP and imposition of moratorium under Section 14 of the Code, Respondent No. 2 is precluded from issuing the Sale Certificate, irrespective of any order passed by another judicial forum. Consequently, the property forms part of the Corporate Debtor's asset pool, and the Resolution Professional (Respondent No. 1) is obligated under Section 18 of the Code to take custody and control thereof.

24. The Respondent No. 1 submits that Respondent No. 2, being the Secured Financial Creditor, has filed its claim in the CIRP for Rs. 117,80,81,816/-, of which Rs. 107,31,79,180/- has been verified and collated by Respondent No. 1. Notably, Respondent No. 2 has not adjusted the amount allegedly recovered from the sale of the said property while filing its claim. Therefore, any remedy lies only against Respondent No. 2 and not Respondent No. 1.

25. In support of its submissions, the Applicant relied upon the following judgements of Hon'ble Supreme Court, Hon'ble High Court and Hon'ble NCLAT:

- i. *Arrow Business Development Consultants Private Limited v. Union Bank of India and Ors., WP 11132 of 2025*



- ii. *Indian Overseas Bank v. RCM Infrastructure Limited, (2022) 8 SCC 516*

Reply of Respondent No. 2

26. The Respondent No. 2 submits that upon Corporate Debtor's default, the loan account was classified as a Non-Performing Asset on 02.05.2022. Consequently, the Bank initiated recovery proceedings under the SARFAESI Act. Thereafter, issued sale notice dated 11.12.2023 and 12.11.2024 pursuant to which the Applicant emerged as the highest bidder and deposited 100% of the sale consideration.
27. The Respondent No.2's actions aimed at recovering public money are in consonance with the legislative intent of the SARFAESI Act, which provides for expeditious recovery of secured debts. The SARFAESI measures commenced well before the admission of the CIRP initiated against the Corporate Debtor. The moratorium under Section 7 application operates only in respect of the Corporate Debtor and its guarantors do not attract the moratorium under Section 96 of the Code which related to interim moratorium for individuals and partnership firms. The mortgaged properties continue to be subject to the security interest of the Applicant/Bank.
28. Respondent No. 2 has pursued its remedies under the SARFAESI Act, and its actions are in strict compliance with the provisions thereof. The interim order passed by the Ld. DRT, Mumbai merely restrained the Bank from issuing the Sale Certificate and did not invalidate the auction process, and an appeal against the said orders has been filed before the Hon'ble DRAT.



Analysis and Findings:

29. We have heard the Ld. Counsels of the parties and perused the documents available on record.
30. The Applicant has not pressed prayer 'a'. Therefore, prayer 'a' is dismissed as not pressed.
31. The Applicant has filed the present application under Section 60(5) of the Code against three Respondents; however, Respondent No. 3 has not filed any reply. Vide daily order dated 17.02.2026 in the present IA, it is recorded that no reply has been filed on behalf of Respondent No. 3, who is not inclined to file one. However, during hearing on 19.03.2026, Ld. Counsel for Respondent No. 3 states that it was also undergoing CIRP and they have received the Resolution Plan and that as of now, they are not aware as to what treatment has been given in the Resolution Plan in respect of this Property in question.
32. Through the present Interlocutory Application, the Applicant seeks that the Corporate Debtor's right of redemption stood extinguished upon publication of the e-auction notice and an asset sold prior to CIRP cannot form part of the Information Memorandum or Resolution Plan, and Respondent No. 1 is bound to verify and exclude such property upon proof of prior sale.
33. *Per contra*, Respondent No. 1 submits that in the absence of a Sale Certificate, the property remains in the name of the Corporate Debtor and forms part of the CIRP asset pool. The Application is not maintainable under Section 60(5) as it concerns pre-CIRP events and disputes are already pending before the DRT/DRAT. Further, under Rule 9(6) of the SARFAESI Rules, the sale is incomplete without issuance of the Sale Certificate, and during the Section 14 moratorium, the same cannot be



issued. Any grievance, therefore, lies against Respondent No. 2 and not Respondent No. 1. Further, Respondent No. 2 contended that the measures under SARFAESI Act commenced well prior to admission of CIRP, and the moratorium does not affect the Bank's secured interest. The interim order of the Ld. DRT, Mumbai merely restrained issuance of the Sale Certificate without invalidating the auction, and an appeal against the said order is pending before the Hon'ble DRAT.

34. The following relevant and undisputed facts are noted:

- i. Respondent No. 3 (Borrower) availed a working capital term loan facility from Respondent No. 2. The Corporate Debtor stood as Corporate Guarantor and created a first pari passu charge over the subject property.
- ii. Respondent No. 2 took possession of the said property pursuant to notice dated 30.06.2023 issued under the SARFAESI Act.
- iii. Respondent No. 2 conducted auction proceedings by issuing e-auction notices dated 11.12.2023 and 12.11.2024.
- iv. Respondent No. 3 filed an application before the Ld. DRT seeking stay of the auction proceedings.
- v. On 04.12.2024, the Applicant submitted a bid of Rs. 1,26,78,500/- and was declared the successful bidder. A sale intimation letter dated 06.12.2024 was issued to the Applicant. The Applicant deposited Rs. 37,31,775/- on or before 07.12.2024.
- vi. On 09.12.2024, the Ld. DRT stayed the issuance of the Sale Certificate.



- vii. The remaining sale consideration was paid by 13.12.2024 and Respondent No. 2 acknowledged receipt of the same vide email dated 16.12.2024.
- viii. The CIRP against the Corporate Debtor was initiated on 09.05.2025.
- ix. The interim order passed by the Ld. DRT is presently under challenge before the Hon'ble DRAT.

35. The Applicant contends that by virtue of the amended Section 13(8) of the SARFAESI Act, the Corporate Debtor's right of redemption stood extinguished upon publication of the e-auction notice, and that upon full payment under Section 13(4) read with Rules 9(3) and 9(4), the sale stood confirmed and vested rights accrued in favour of the Applicant, notwithstanding pendency of proceedings or non-issuance of the Sale Certificate prior to CIRP.

36. Upon a plain reading, the amended Section 13(8) only specifies the stage at which the borrower's right of redemption comes to an end, namely, upon publication of the sale notice. It does not deal with transfer of ownership. Ownership passes only after the sale is completed in accordance with Rule 9 of the SARFAESI Rules i.e. upon full payment of the sale consideration and issuance of the Sale Certificate under Rule 9(6).

37. The contention of the Applicant, is untenable in view of that fact that although the sale notice was issued on 11.12.2023 and 12.11.2024 thereafter e-auction was concluded prior to commencement of CIRP dated 09.05.2025 and the entire sale consideration was paid by the Applicant by 13.12.2024 and acknowledged by Respondent No.2 on 16.12.2024, the Sale Certificate has not been issued by the Respondent No. 2. Therefore, mere loss of redemption rights does not ipso facto result in loss of ownership. Consequently, the sale was not completed in terms of the



statutory scheme and ownership did not formally transfer. The Hon'ble High Court of Bombay in case of *Arrow Business Development Consultants Pvt. Ltd. vs. Union Bank of India & Ors.* (Writ Petition No. 11132 OF 2025) dated 10.12.2025, has held as under:

“19. Upon careful consideration of the relevant provisions, we find that the 2016 Amendment to Section 13(8) of the SARFAESI does not alter this regime since a plain reading thereof would reveal that its effect is only to extinguish the right of redemption of the Borrower, upon the publication of the sale notice and not the entire ownership right of the Borrower in the secured asset. During the unamended Section 13(8) regime, the loss of the right of redemption was coterminous with the loss of ownership (this position was aligned with Section 60 of the Transfer of Property Act, 1882). However, post the amendment to Section 13(8), the extinguishment of the right of redemption has been advanced to the stage when the secured creditor publishes the notice for sale. Therefore, the amendment has only altered the date on which the right of redemption is lost/extinguished and it does not alter the position that the sale is only completed upon issuance of sale certificate, in accordance with Rule 9(6) of the SARFAESI Rules.

*20. Our said finding is fortified by the fact that the equity of redemption is only a facet or one of the bouquet of rights that constitute ownership, which position is also reiterated by the Supreme Court in Narayan Deorao Javle (supra) which holds that: “19. [T]he equity of redemption is a right which is subsidiary to the right of ownership. Such right is not over and above the right of ownership purchased by the plaintiff.” Ownership, on the other hand, is a bundle of rights such as, the right to exclusive enjoyment, destruction, alteration, redemption. In **Black’s Law Dictionary, 12th Edition**, ownership has been defined to mean “the bundle of rights allowing one to use, manage, and enjoy property, including the right to convey to others ownership implies the right to possess a thing, regardless of any actual or constructive control.*



Ownership rights are general, permanent, and heritable.”
Therefore, on losing merely the right of redemption, a Borrower does not automatically lose ownership rights over the secured asset. The ownership right is ultimately lost only upon issuance of sale certificate in accordance with Rule 9(6) of the SARFAESI Rules.”

[Bold for Emphasis]

38. Further, the Hon’ble Supreme Court in case of *Indian Overseas Bank v. RCM Infrastructure Limited*, (2022) 8 SCC 516 dated 18.05.2022 have held as under:

*“32. It is further to be noted that the present case arises out of a statutory sale. The sale would be governed by Rules 8 and 9 of the said Rules. **The sale would be complete only when the auction purchaser makes the entire payment and the authorised officer, exercising the power of sale, shall issue a certificate of sale of the property in favour of the purchaser in the Form given in Appendix V to the said Rules.***

*33. In the case of **Shakeena and Another v. Bank of India and Others**, which was a case arising out of SARFAESI Act, this Court has held that the sale certificate issued in favour of the respondent No.3 did not require registration and that the sale process was complete on issuance of the sale certificate. The same has been followed by this Court in the case of *S. Karthik (supra)*.”*

[Bold for Emphasis]

Accordingly, since sale certificate in accordance with Rule 9(6) of the SARFAESI Rules, has not yet been issued, the ownership rights over secured asset has not yet been passed over to the Applicant.

39. It is the contention of the Applicant that Section 18(f) of the Code applies only to assets owned by the Corporate Debtor as on the insolvency commencement date and excludes assets allegedly sold prior thereto. However, upon perusal of the record, it is evident that although Respondent No. 2 had initiated recovery proceedings under the SARFAESI Act and



issued e-auction sale notices on 12.11.2024 in accordance with the Rules and though the entire sale consideration was received by 13.12.2024 and acknowledged on 16.12.2024, prior thereto, the Ld. DRT, by interim order dated 09.12.2024, had stayed issuance of the Sale Certificate, and as such the sale by way of auction is yet not completed.

40. In view of the said interim order, which is stated to be under challenge before the Hon'ble DRAT, the sale proceedings have not attained finality and were not completed prior to the commencement of CIRP date 09.05.2025. Upon initiation of CIRP, the moratorium under Section 14 of the Code came into effect, suspending further proceedings under the SARFAESI Act. Accordingly, as on the insolvency commencement date, the property continued to vest in the Corporate Debtor and forms part of the asset pool to be taken into custody and control by the Resolution Professional under Section 18 of the Code. In the case of **Indian Overseas Bank** (Supra), the Hon'ble Supreme Court has held that after the CIRP is initiated, all actions including any action under the SARFAESI Act to foreclose, recover or enforce any security interest are prohibited. The relevant observation is reproduced below:

*“24. It is thus clear that after the CIRP is initiated, there is moratorium for any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the SARFAESI Act. It is clear that once the CIRP is commenced, there is complete prohibition for any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property. The words “including any action under the SARFAESI Act” are significant. **The legislative intent is clear that after the CIRP is initiated, all actions including any action under the SARFAESI Act to***



foreclose, recover or enforce any security interest are prohibited.

...

34. Undisputedly, in the present case, the balance amount has been accepted by the appellant Bank on 8th March 2019. The sale under the statutory scheme as contemplated under Rules 8 and 9 of the said Rules would stand completed only on 8th March 2019. Admittedly, this date falls much after 3rd January 2019, i.e., on which date CIRP commenced and moratorium was ordered. As such, we are unable to accept the argument on behalf of the appellant Bank that the sale was complete upon receipt of the part payment.

35. In view of the provisions of **Section 14(1)(c) of the IBC, which have overriding effect over any other law, any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the SARFAESI Act is prohibited. We are of the view that the appellant Bank could not have continued the proceedings under the SARFAESI Act once the CIRP was initiated and the moratorium was ordered.**”

[Bold for Emphasis]

41. As regards the contention that concluded sale under the SARFAESI Act can be set aside only upon strict proof of material irregularity, fraud, or collusion causing grave prejudice, it is mentioned that this Adjudicating Authority, exercising jurisdiction under the Code, cannot sit in appeal over or examine the DRT’s interim order in proceedings under SARFAESI Act, which is already before the Hon’ble DRAT. Accordingly, any rights of the Applicant pursuant to the auction of the said property and payment of consideration is to be adequately reflected in the Information Memorandum; however, the said property cannot be excluded from the asset pool, as the ownership continues to vest with the Corporate Debtor.



42. For purpose of completeness, we are also inclined to consider the judgments cited by the Applicant. The Applicant relied on the judgement of Hon'ble Supreme Court in ***B. Arvind Kumar v. Govt. of India***, (2007) 5 SCC 745 dated 28.05.2007. The same deals with the issue involving the absolute owner of the suit property which was sold in a public auction and the Sale certificate itself was registered. In the Judgement in ***Unity Small Finance Bank Limited v. Suraksha Asset Reconstruction Ltd. & Anr*** (2025) ibclaw.in 559 NCLAT dated 24.07.2025, the Hon'ble NCLAT dealt with the issue of auction of the Corporate debtor's assets attached in connection with economic offences pursuant to the order of Chief Metropolitan Magistrate prior to initiation of CIRP. The judgments of the Hon'ble Supreme Court in ***Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd. & Ors.***, 2023 SCC OnLine SC 1209 dated 21.09.2023, and ***Celir LLP v. Sumati Prasad Bafna & Ors.***, (2024) ibclaw.in 319 SC dated 13.12.2024, relates to issue of redemption of mortgaged property and alleged contempt in the context of SARFAESI proceedings. In the Judgement in ***Nagpur Nagrik Sahakari Bank Ltd. v. Mohanlal Ayaapan Pillai and Ors*** (2025) ibclaw.in 381 NCLAT dated 05.05.2025, Hon'ble NCLAT deals with the issue related to redemption right of the mortgagor and not on stay order preventing issuance of sale certificate.

In contrast, in the present case, although the Applicant, as the successful bidder, paid the entire sale consideration which was duly acknowledged by the Bank, the Ld. DRT had already granted a stay on issuance of the Sale Certificate. Before the sale could be completed in accordance with law, CIRP was initiated against the Corporate Debtor, and the moratorium under Section 14 of the Code came into effect, thereby impacting further proceedings under the SARFAESI Act.



43. In view of the above discussion and after considering the parties' contentions and relevant judicial precedents, we are of the opinion that the relief sought by the Applicant in prayer 'b' lacks merit.

44. Accordingly, IA No. 4216 of 2025 is **dismissed** and **disposed of**.

Sd/-

Charanjeet Singh Gulati

Member (Technical)

/Saumya – LRA/

Sd/-

Nilesh Sharma

Member (Judicial)