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

Date of decision: 18th NOVEMBER, 2026

IN THE MATTER OF:

\# **CNR No. DLHC010317392026**

\+ **W.P.(C) 9954/2026 & CM APPL. 46369/2026**

VAYUU PROPMART PVT. LTD. .....Petitioner

Through: Mr. Anil K. Airi, Senior Advocate with Mr. Abhishek Batra, Mr. Vishnu Anand, Ms. Aansi Pathak, Mr. Harsh Gautam, Mr. Vishal Tyagi, Advs.

versus

UBA REALTECH PVT. LTD. AND ORS. .....Respondents

Through: Mr. Pallav Saxena, Mr. Apoorv Agarwal Ms. Saloni Singh, Advs for R-1.
Mr. Rajinder Wali and Ms. Shivani Gupta, Advs for R-4.

\# **CNR No. DLHC010316942026**

\+ **W.P.(C) 9969/2026 & CM APPL. 46416/2026**

VAYUU PROPMART PVT. LTD. .....Petitioner

Through: Mr. Anil K. Airi, Senior Advocate with Mr. Abhishek Batra, Mr. Vishnu Anand, Ms. Aansi Pathak, Mr. Harsh Gautam, Mr. Vishal Tyagi, Advs.

versus

NURAY REALTECH PVT. LTD .....Respondent

Through: Mr. Pallav Saxena, Mr. Apoorv Agarwal Ms. Saloni Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MS. JUSTICE RENU BHATNAGAR

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JUDGMENT

1. The present Writ Petitions have been filed under Articles 226 and 227 of the Constitution of India against the Common Order dated 14.07.2026 passed by the learned Debts Recovery Appellate Tribunal, New Delhi ["**DRAT**"], in the applications bearing I.A. Nos. 119/2026 and 124/2026 filed by the Respondent No.1/Appellants in Appeals No. 52/2026 and 58/2026 ["**Impugned Order**"].

2. The challenge of the Petitioner herein against the Impugned Order is limited, to the extent it prays for the setting aside of that portion of the Impugned Order, wherein the learned DRAT has directed the pre-deposit to be made on the amount mentioned in the Demand Notice dated 05.02.2014 ["**Demand Notice**"], i.e., Rs. 32,17,65,461.23/-. Additionally, the Writ Petitioner has also prayed that the Respondent No. 1 be directed to comply with the provisions of Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ["**SARFAESI Act**"], and make a pre-deposit of 50% on the amount due from it, as claimed by the Respondent No. 4-Bank.

3. A brief factual background into the disputes between the parties is given as under:

(i) The Respondent No. 2 approached the Respondent No. 4-Bank in and around January 2013 to seek Term Loan Facility of Rs. 30 crores for strengthening networking capital and to overcome liquidity mismatch faced by the Respondent No. 2.

(ii) The Respondent No.4-Bank sanctioned a Term Loan of Rs. 30 crores in favour of the Respondent No. 2*vide* Sanction Letter dated 13.12.2012.

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(iii) The Respondent No.1 in WP (C) No. 9969/2026, being the guarantor, had mortgaged the land measuring 2.86 acres situated at Khewat No. 381, Khata No. 499, Mustil No. 51, Killa Nos. 2/2(3-15), 9/1(5-0), 12/2(6-0), 13/1(7-2) and 2/1(1-0) situated in Village Daulatabad, Tehsil and District Gurgaon, conveyed *vide* Sale Deed dated 11.04.2011, while the Respondent No. 1 in WP (C) No. 9954/2026, also the guarantor, had mortgaged the land measuring 2.128 acres comprising of Khewat No. 341 min, 344 rectangle no. 41, Killa No. 18/2(0-9) and 19/2(0-8) situated at Village Daulatabad, Tehsil and District Gurgaon to secure the loan.

(iv) The loan account of the Respondent No. 2 was declared as a Non-Performing Asset on 31.12.2013.

(v) The Respondent No. 4-Bank issued a Demand Notice dated 05.02.2014 for payment of Rs. 32,17,65,461.23/- as outstanding dues to the Respondent No. 2.

(vi) Subsequently, Corporate Insolvency Resolution Process ["**CIRP**"] was initiated against the Respondent No. 2 *vide* Company Petition bearing CP (IB) 190/2017 under Section 7 of the Insolvency and Bankruptcy Code, 2016 ["**IBC**"]. The National Company Law Tribunal, Delhi ["**NCLT**"] *vide* Order dated 08.05.2018 allowed the said petition for initiation of CIRP against the Respondent No. 2.

(vii) Subsequently, the Resolution Plan of the Respondent No. 2 was approved by the Committee of Creditors on 11.06.2024 and the claim of the Respondent No. 4-Bank was also dealt with as per the Resolution Plan.

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(viii) It is pertinent to note that the Respondent No. 4-Bank also issued a Sale Notice dated 06.02.2023, wherein the Respondent No. 4-Bank claimed an amount of Rs. 126.20 crores as outstanding amount. In another Sale Notice dated 24.03.2023 , the Respondent No. 4-Bank claimed a sum of Rs. 127.67 crores as outstanding dues, while in the last Sale Notice dated 07.09.2023, the Respondent No. 4-Bank claimed a sum of Rs. 137.78 crores as the outstanding dues.

(ix) The above Sale Notice dated 07.09.2023 as well as the Demand Notice issued by the Respondent No. 4-Bank were the subject matter of Securitization Applications bearing S.A. No. 527/2023 and 528/2023 filed by the Respondent No. 1 before the learned Debts Recovery Tribunal, Delhi ["**DRT**"], which came to be dismissed *vide* Order dated 09.01.2026.

(x) Against the dismissal of the Securitization Applications by the learned DRT, the Respondent No. 1 in the present Writ Petitions preferred the appeals before the learned DRAT, along with applications seeking reduction of the pre-deposit amount to 25% under Section 18(1) of the SARFAESI Act.

4. Material on record indicates that the case of the Appellants before the learned DRAT (i.e., Respondent No. 1 before this Court) was that the Order dated 09.01.2026 passed by the learned DRT was illegal and unsustainable, as being contrary to Section 13(1) of the SARFAESI Act, which expressly exempts agriculture land from the purview of the legislation. The Appellants had further pleaded that the Order dated 09.01.2026 passed by the learned DRT was vitiated by non-compliance of the SARFAESI Act and Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002.

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5. The Appellants had further argued before the learned DRAT that the Demand Notice was contrary to Section 31(1) of the SARFAESI Act. Additionally, it was also pleaded that the Appellants, being only the mortgagors, are facing serious financial hardship and in these circumstances, the learned DRAT has the power to reduce the pre-deposit to a minimum of 25% of the debt due.

6. Perusal of the Impugned Order indicates that the learned DRAT first took note of the fact that the Sale Notice dated 07.09.2023 was issued after a period of nearly nine (9) years from the issuance of the Demand Notice under Section 13(2) of the SARFAESI Act and no explanation for this gap of nine (9) years was furnished by the Respondent No. 4-Bank. It was opined that the Respondent No. 4-Bank cannot be allowed to take advantage of its own omission in issuance of the Sale Notice dated 07.09.2023 after a lapse of nine (9) years from the date of the Demand Notice under Section 13(2) of the SARFAESI Act.

7. The learned DRAT ruled that the Respondent No. 4-Bank was not within its legal rights to take benefit of the judgment of the Apex Court in Sidha Neelkanth Paper (P) Ltd. v. Prudent ARC Ltd., **2023 SCC OnLine SC 12**, by pleading that the Appellants, who are only the mortgagors, are required to make the pre-deposit on the amount as mentioned in the Sale Notice dated 07.09.2023, as the Appellants cannot be allowed to suffer due to the unexplained delay of the Respondent No. 4-Bank in issuance of the sale notice.

8. Perusal of the Impugned Order further shows that the learned DRAT rejected the argument advanced on behalf of the Petitioner, that the Respondent No.1/Appellants, being the guarantor and mortgagor, have joint,

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several and co-extensive liabilities with that of the principal borrower (i.e., the Respondent No. 2 herein) and securitization measures can be proceeded against the Respondent No.1/Appellants even if a Resolution Plan *qua* the Petitioner stood approved by the NCLT. The reasons given by the learned DRAT for rejecting this line of argument was firstly, the unexplained, inordinate delay on part of the Respondent No. 4-Bank in the issuance of the Sale Notice dated 07.09.2023 as well as the fact that the claim of the Respondent No. 4-Bank *qua* the Respondent No. 2/Borrower stood addressed in the Resolution Plan.

9. Thus, while disposing of I.A. Nos. 119/2026 and 124/2026,the learned DRAT concluded that the Respondent No. 4-Bank, without any reason, allowed the outstanding dues to accumulate and viewed the said conduct as unjustified, unreasonable, illogical and without any basis. Further taking into consideration *inter alia* the fact that the Respondent No. 1/Appellants are only mortgagors and the claim of the Respondent No. 4-Bank stood addressed in the Resolution Plan, the learned DRAT directed the Respondent No. 1/Appellants to make a pre-deposit of 30% of Rs. 32,17,65,461.32/- as mentioned in the Demand Notice. It is against this direction passed by the learned DRAT that the present Writ Petition has been filed.

10. Learned Senior Counsel appearing for the Petitioner has argued as under:

(i) It is submitted that the Petitioner is an ‘aggrieved person’ and has locus to challenge the Impugned Order as the learned DRAT, while deciding the issue of pre-deposit under I.A. Nos. 119/2026 and 124/2026, also gave a finding on the merits of the appeal by holding that the Respondent No. 1 is merely a mortgagor and its

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debts stand addressed in the Resolution Plan of the Respondent No. 2.

(ii) It is stated that the above observation forms a primary part of the defence of the Respondent No. 1, which ought to have been decided by the learned DRAT at the time of final hearing of the appeal and not at the stage of pre-deposit, when even notice was not issued in the appeal. As such, if this observation is allowed to subsist, the Petitioner would be gravely prejudiced at the time of hearing of the appeal before the learned DRAT.

(iii) The present Writ Petition is maintainable in law also for the reason that the Petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India and it is well settled that the power of superintendence so conferred on the High Courts is capable of being invoked at the instance of any person even *suo moto*. As such, it is submitted that since the learned DRAT has travelled beyond its jurisdiction and discretion allowed under the SARFAESI Act and reduced the amount of pre-deposit to less than 25% of the debt due as claimed by the secured creditor, interference of this Court is warranted. Reliance in this regard is placed on the judgment of the Apex Court in Surya Dev Rai v. Ram Chander Rai, **(2003) 6 SCC 675**.

(iv) It is submitted that the learned DRAT travelled beyond its jurisdiction and discretion by reducing the amount of pre-deposit to less than 25% of the debt due as claimed by the secured creditor, by directing the Respondent No. 1 to make a pre-deposit of only 30% of the amount mentioned in the Demand Notice.

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(v) Keeping in mind the definition of 'debt' as defined under Section 2(ha) of the SARFAESI Act, which has the same meaning assigned to it in Clause 2(g) of the Recovery of Debts and Bankruptcy Act, 1993 ["**RDB Act**"], it is submitted that 'debt' means any liability inclusive of interest which is claimed as due from a borrower, which is legally recoverable on the date of Securitization Application under Section 17 of the SARFAESI Act filed by an aggrieved person, i.e., the guarantor and mortgagor.

(vi) It is submitted that the applicability of the proviso to Section 18 of the SARFAESI Act would be only on the date of filing of an appeal, as the borrower/guarantor/mortgagor would be required to make a pre-deposit for the appeal to be admitted. Therefore, a combined reading of the proviso to Section 18 read with Section 2(ha) of the SARFAESI Act and Section 2(g) of the RDB Act makes it clear that the amount of debt due as mentioned in the proviso to Section 18 would necessarily mean the debt due as claimed by the secured creditor inclusive of interest till the date of filing of the appeal.

(vii) The Petitioner's case is covered by the ratio of the Apex Court in Sidha Neelkanth (Supra), wherein it has been held that in a case where the borrower challenges both, the steps taken under Section 13(4) of the SARFAESI Act as well as the auction sale of the secured assets, the 'debt due' shall mean any liability, inclusive of interest, which is claimed as due from any person, whichever is higher. Reference in this regard is also made to judgment passed

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by a Coordinate Bench of this Court in Golden NetsoftPvt. Ltd. versus HDFC Bank Ltd., **2024 SCC Online Del 2124**.

(viii) It is argued that the learned DRAT failed to consider that the judgment of the Apex Court in Sidha Neelkanth (Supra) does not confer any benefit but merely interprets the SARFAESI Act and as such, ought not to be deviated from. For this reason, conclusion of the learned DRAT that the Respondent No. 4-Bank itself delayed its SARFAESI actions cannot be given the benefit of the Sidha Neelkanth (Supra) judgment, is erroneous and cannot be sustained.

(ix) In any event, it is submitted that there was no delay at all on part of the Respondent No. 4-Bank in seeking recovery of its dues. Rather, the Respondent No. 4-Bank has availed the remedies available to its under law to recover public money. This is substantiated by the fact that the first three auction notices dated 18.07.2014, 06.02.2023 and 24.03.2023 were all stalled due to the filing of securitization applications by the Respondent No. 1 against them. Even against the last auction notice dated 07.09.2023, the Respondent No. 1 filed a securitization application, which ultimately came to be dismissed by the learned DRT *vide* the Order dated 09.01.2026. Therefore, it is submitted that rather than holding the Respondent No. 4-Bank responsible for delays, the learned DRAT should have considered that it was the Respondent No. 1 who derailed proceedings at every step by filing frivolous applications before the learned DRT.

11. *Per contra*, learned Counsel appearing for the Respondent No. 1 has argued as under:

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(i) It is submitted that the Petitioner, who is the auction purchaser, has no locus to challenge the Impugned Order, which merely decides the issue of pre-deposit. It is stated that the issue of pre-deposit under Section 18 of the SARFAESI Act is a matter strictly between the Respondent No. 1-Mortgagor and the learned DRAT, and is prescribed for the protection of the secured creditor and for this reason, the Petitioner has no right, title, or interest in the quantum of the pre-deposit, no entitlement to receive it and consequently, no cause of action to complain of its quantum.

(ii) It is trite law that *locus standi* to invoke Article 226 of the Constitution of India requires the existence of a legal right in the Petitioner and a corresponding legal injury. Reliance, in this regard, is placed on the Judgment of the Apex Court in JasbhaiMotibhai Desai v. Roshan Kumar, **(1976) 1 SCC 671**.

(iii) The present Writ Petition is not maintainable also for the reason that by way of the Impugned Order, the learned DRAT has merely exercised the statutory discretion vested in it and there is no jurisdictional error whatsoever. Further, it is settled law that in exercise of its jurisdiction under Article 226, the High Court does not sit in appeal over discretionary orders passed by statutory tribunals. Judicial review is confined to examining jurisdictional errors, patent illegality, perversity, violation of the principles of natural justice, or manifest arbitrariness. The Petitioner has failed to demonstrate that the Impugned Order suffers from any such infirmity.

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(iv) It is submitted that the learned DRAT exercised its jurisdiction under Section 18 of the SARFAESI Act and has given reasons to fix the pre-deposit at 30% above the statutory minimum. Perusal of the Impugned Order further clearly indicates that the Petitioner was heard, there is no denial of natural justice, exercise of jurisdiction beyond its authority, or failure to exercise jurisdiction. As such, the Petitioner is essentially seeking a fresh assessment of the banking calculations and substitution of its preferred figure for the amount determined by the statutory appellate forum.

(v) It is submitted that the Impugned Order passed by the learned DRAT is limited to the issue of fixing the pre-deposit required for hearing of the appeal, and does not in any manner decide the final matter on merits of the mortgage or auction.

(vi) It is further submitted that the judgment of the Apex Court in Sidha Neelkanth (Supra) is distinguishable on facts as well as law, as the principal controversy therein concerned the adjustment of auction-sale proceeds towards the statutory pre-deposit under Section 18 of the SARFAESI Act, while the present case concerns the legality of the Demand Notice itself as well as the computation of interest.

(vii) The second question of law in Sidha Neelkanth (Supra) was as to whether 'debt due' under Section 18 of the SARFAESI Act would include liability as well as interest. It is submitted that even this aspect cannot be applied to the present case, because in Sidha Neelkanth (Supra), there was no contention that the notice under Section 13(2) of the SARFAESI Act itself was illegal for want of particulars of the exact applicable rate of interest. It is further

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stated that in the appeal before the learned DRAT, the first and foremost contention of the Respondent No. 1 was that the notice under Section 13(2) of the SARFAESI Act failed to disclose the exact applicable rate of interest and the Respondent No. 4-Bank, after a lapse of nine (9) years, took advantage of the vague interest rate given in the notice under Section 13(2), applied an exorbitant rate of interest and then proceeded to claim a huge and inflated amount of 'debt due' from the Respondent No. 1.

(viii) It is submitted that the Apex Court in Transcore v. Union of India &Anr., **(2008) 1 SCC 125**, recognized that the notice under Section 13(2) of the SARFAESI Act is a substantive demand notice and Section 13(2) requires disclosure of the particulars of the amount payable. It is stated that the failure to furnish the material particulars of the interest claimed deprives the Respondent No. 1 of a meaningful opportunity to contest the demand under Section 13(3-A). A subsequent inflated demand cannot, by itself, cure the deficiencies in the original notice or justify its adoption for calculating the pre-deposit.

(ix) It is stated that CIRP was initiated against the Respondent No. 2 before the NCLT, which was admitted on 08.05.2018. It is a matter of record that the Respondent No.4-Bank duly submitted its claim and participated in CIRP as a financial creditor and later, the Resolution Plan stood approved on 11.06.2024, thereby binding the Respondent No.4-Bank under Section 31 of IBC. Further, as recorded by the NCLT in its Order dated 21.10.2024, the Resolution Plan stood fully implemented. As such, the entire claim

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of the Respondent No. 4-Bank stood settled in terms of the Resolution Plan through upfront payments, issuance of non-convertible debentures and conversion of balance into equity. Since the Respondent No. 4-Bank has itself issued a No-Dues Certificate dated 27.01.2025 thereby acknowledging satisfaction of its dues, no liability now survives.

12. Heard the learned Counsels for the Parties and perused the material on record.

13. The challenge to an order passed by the DRAT, which is a Tribunal, has been placed before the Division Bench of this Court in light of the Judgment passed by the Apex Court in L. Chandra Kumar v. Union of India and Others, **(1997) 3 SCC 261**. The general scope and limits of the High Courts' powers and discretion under Articles 226 and 227 of the Constitution of India has been summarized by the Apex Court in M.S. Sanjay v. Indian Bank, **2025 SCC OnLine SC 368**. 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 in-fraction 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 recovered by the Market Committee concerned. The demand for refund of the excess*

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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*

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> *refuse to upset it with a view to doing substantial justice between the parties.*"

14. It is settled law that while exercising its jurisdiction under Article 226 of the Constitution of India, this Court does not substitute its own conclusion to the one arrived at by the Tribunal. This Court only sees as to whether the decision making process adopted by the Tribunal was correct or not and unless the Order is exceedingly perverse and completely contradictory to law, the writ courts will refrain from interfering with such orders.

15. For examining the controversy arising in the present Writ Petition, reference is apposite to Section 18 of the SARFAESI Act, which is being reproduced to read as under:

> "***18. Appeal to Appellate Tribunal.***—*(1) Any person aggrieved, byany order made by the Debts Recovery Tribunal [under section 17, may prefer an appeal along with such fee, as may be prescribed] to an Appellate Tribunal within thirty days from the date of receipt of the order of Debts Recovery Tribunal.*
>
> *[Provided that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower :] [Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:*
>
> *Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of debt referred to in the second proviso.]*

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> *(2) Save as otherwise provided in this Act, the Appellate Tribunal shall, as far as may be, dispose of the appeal in accordance with the provisions of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993) and rules made thereunder.*"

16. Reading of Section 18(1) of the SARFAESI Act indicates that the said provision confers a statutory right on a person aggrieved by any order made by the DRT under Section 17 to prefer an appeal to the DRAT. However, the right conferred under Section 18(1) is subject to the condition laid down in the second proviso thereto. The second proviso postulates that no appeal shall be entertained unless the borrower has deposited with the DRAT fifty per cent of the amount of debt due from him, as claimed by the secured creditors or determined by the DRT, whichever is less. Further, under the third proviso to the sub-section, the Appellate Tribunal has the power to reduce the amount, for the reasons to be recorded in writing, to not less than twenty-five per cent of the debt, referred to in the second proviso.

17. Further reference is pertinent to the following discussion undertaken by the Apex Court in Sidha Neelkanth (Supra):

> "***33.*** *As per Section 2(ha) of the SARFAESI Act, "debt" shall have the same meaning assigned to it in clause (g) of Section 2 of the Act, 1993. As per section 2(g) of the Act, 1993, "debt" means any liability inclusive of interest which is claimed as due from any person….., by a bank or a financial institution during the course of any business activity undertaken by the bank or the financial institution, in cash or otherwise, whether secured or unsecured, or assigned, or whether payable under a decree or order of any civil court or any arbitration award or otherwise or under a mortgage and subsisting on, and legally recoverable on the date of the application. That the "debt" means any liability inclusive of interest.*

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34. *As per Section 18 of the SARFAESI Act, any person aggrieved, by any order made by the DRT under section 17, may prefer an appeal within thirty days to an appellate Tribunal (DRAT) from the date of receipt of the order of DRT. Second proviso to section 18 provides that no appeal shall be entertained unless the "borrower" has deposited with the Appellate Tribunal fifty percent of the amount of "debt due" from him, as claimed by the secured creditors or determined by the DRT, whichever is less and only and only then, an appeal under Section 18 of the SARFAESI Act is permissible against the order passed by the DRT under Section 17 of the SARFAESI Act. Under Section 17, the scope of enquiry is limited to the steps taken under Section 13(4) against the secured assets. Therefore, whatever amount is mentioned in the notice under Section 13(2) of the SARFAESI Act, in case steps taken under Section 13(2)/13(4) against the secured assets are under challenge before the DRT will be the 'debt due' within the meaning of proviso to Section 18 of the SARFAESI Act. In case of challenge to thesale of the secured assets, the amount mentioned in the sale certificate will have to be considered while determining the amount of pre-deposit under Section 18 of the SARFAESI Act. However, in a case where both are under challenge, namely, steps taken under Section 13(4) against the secured assets and also the auction sale of the secured assets, in that case, the "debt due" shall mean any liability (inclusive of interest) which is claimed as due from any person, whichever is higher.*

35. *As observed hereinabove and as per the second proviso to Section 18 of the SARFAESI Act, it is the "borrower" who has preferred an appeal before the Appellate Tribunal and the "borrower" who shall have to deposit 50% of the amount of "debt due" from him. If the words used in the second proviso to Section 18 of the SARFAESI Act are "borrower has to deposit", it is*

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> *not appreciable how the amount deposited by the auction purchaser on purchase of secured assets can be adjusted and/or appropriated towards the amount of predeposit, to be deposited by the borrower. It is the "borrower" who has to deposit the 50% of the amount of "debt due" from him. At the same time, if the borrower wants to appropriate and/or adjust the amount realised from sale of the secured assets deposited by the auction purchaser, the borrower has to accept the auction sale. In other words, the borrower can take the benefit of the amount received by the creditor in an auction sale only if he unequivocally accepts the sale. In a case where the borrower also challenges the auction sale and does not accept the same and also challenges the steps taken under Section 13(2)/13(4) of the SARFAESI Act with respect to secured assets, the borrower has to deposit 50% of the amount claimed by the secured creditor along with interest as per section 2(g) of the Act, 1993 and as per section 2(g), "debt" means any liability inclusive of interest which is claimed as due from any person.*"

18. The case set up by the Petitioner before this Court strongly rests on the above interpretation of the Apex Court into what comprises the *"…debt due from him…*" for the purpose of determining the amount of pre-deposit under Section 18 of the SARFAESI Act. Learned Senior Counsel for the Petitioner contends that since the Respondent No. 1, in its appeal before the learned DRAT, has challenged the Demand Notice, Possession Notice, Sale Notice as well as Sale Certificate, the amount mentioned in the Sale Certificate shall have to be considered while determining the amount of pre-deposit under Section 18 of the SARFAESI Act, in light of the ratio in Sidha Neelkanth (Supra). However, this Court is not persuaded by the said contention, as it is trite law that a mere wrong decision, without anything

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more, is not enough to attract the jurisdiction of this Court under Article 227 of the Constitution of India [Ref: Mohd. Yunus v. Mohd. Mustaqim & Ors., **(1983) 3 SCC 566**].

19. The supervisory jurisdiction conferred on this Court under Article 227 of the Constitution of India is limited to seeing than an inferior Court or Tribunal functions within the limits of its authority and not to correct an error apparent on the face of the record, much less an error of law. Perusal of the Impugned Order depicts that the learned DRAT acted completely within its jurisdiction and exercised the discretion made available to it under the third proviso to sub-section (1) of Section 18 of the SARFAESI Act. Question as to whether or not the ratio of the judgment of the Apex Court in Sidha Neelkanth (Supra) was followed in its letter and spirit cannot be entertained by this Court, keeping in view the limited scope of interference granted to this Court under Article 227 of the Constitution of India.

20. In any event, the Impugned Order passed by the learned DRAT only decides the interim applications filed by the Appellant therein, and in no way the observations contained in an interim order be construed as a final expression on the merits of the appeal, even against the Petitioner herein.

21. In view of the above, the present Writ Petitions stand dismissed, along with pending Application(s), if any.

SUBRAMONIUM PRASAD, J

RENU BHATNAGAR, J

NOVEMBER 18, 2026
AP

Signature Not Verified
Signed By:RAHUL SINGH
Signing Date:18.11.2026 19:37:56