

DEBTS RECOVERY APPELLATE TRIBUNAL, DELHI

Misc. Appeal No. 66 of 2026

**(Arising out of Order dated 17.04.2026 passed by DRT-2, Delhi in I.A
No.3230 of 2025 filed in S.A. No. 25 of 2025)**

Order Reserved: 08.05.2026

Order Pronounced: 17.06.2026

**Meenakshi Goel
W/o Mr. Sachin Goel
R/o Plot No. 16, East Avenue Road,
East Punjabi Bagh, Delhi-110023**

.....Appellant

V

**1. HDFC Bank Ltd.
Ground Floor, Gulab Bhawan
5, Bahadur Shah Zafar Marg, ITO
New Delhi-110002**

**2. Sachin Goel
S/o Chand Prakash Goel
C/o WZ-3, Kailash Park, NG Road
Opp. PNB Kirti Nagar, New Delhi-110015**

**3. Chand Prakash Goel
S/o SurajBhanGoel
R/o H. No. 18, Road No. 7
East Punjabi Bagh, New Delhi-110026**

**4. C Prakshanand Co.
Through partner Mr. Chand Prakash Goel,
R/o H. No. 18, Road No. 7,
East Punjabi Bagh, New Delhi-110026**

.....Respondents

Hon'ble Dr. Justice Sudhir Kumar Jain, Chairperson

**Present: Ms. Prem Lata Bansal, Senior Advocate along with Sh. Shivam
Banal, Advocate for the Appellant
Sh. Kashish Narang and Ms. Deboshree Saha, Advocates for the
respondent no. 1
Mr. Atul Gupta, Advocate for the respondents no. 3 and 4**

I.A. No. 635 of 2026(application for waiver of pre-deposit)

1.The instant application is filed on behalf of the appellant for seeking waiver of pre-deposit as provided under Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter called “**the SARFAESI Act**”). The appellant stated that the appellant is neither the borrower nor the guarantor nor the mortgagor in respect of the loan facility in default. The appellant is an independent third party in loan transaction. The appellant was legally protected from dispossession in respect of secured interest vide orders dated 18.09.2024 and 28.09.2024 passed by the courts of the JMFC (Mahila Court) and Civil Judge respectively. It is prayed that the appellant be exempted from making any pre-deposit in terms of Section 18 of the SARFAESI Act.

2. Ms. Prem Lata Bansal, Senior Advocate for the appellant after relying upon the judgment delivered by the Delhi High Court in **Manju Devi V M/s.RBL Bank & others**, W.P(C) No.11766/2016 decided on 01.02.2017 argued that the mandatory condition of pre-deposit does not apply on third party which has not obtained finance from the financial institution.

4. The appellant is neither the borrower nor the guarantor nor the mortgager in respect to the loan and secured asset and is claiming to be the daughter-in-law of respondent no.3 who was a partner of respondent no.4, the actual mortgagor. The Delhi High Court in the above cited case has observed that in appeal the mandatory pre-deposit is not required to be complied with by a third person.

5. The appellant being independent third party in loan transaction is not required to make any pre-deposit as per Section 18 of the SARFAESI Act. The application is allowed accordingly.

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6. The relevant facts as pleaded by the appellant are that the appellant got married with the respondent no.2 on 20.09.1999 and subsequently matrimonial differences stated to have arisen between the appellant and the respondent no.2. The

respondent no.3 is the father-in-law of the appellant. The respondent no 3 as a consequence of family settlement acquired the property bearing no.16, East Avenue Road, East Punjabi Bagh, New Delhi (hereinafter referred to as the “**subject property**”). The respondent no.2 stated to have deserted the appellant on 17.11.2022 and left from the subject property. The appellant along with her three daughters is residing in the said property. The appellant also filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 bearing MC No.629/2024 wherein the Mahila Court, Tis Hazari, Delhi vide order dated 18.09.2024 restrained the respondents no.2 and 3 from dispossessing the appellant and her minor daughters from the shared household till further orders. The appellant also filed civil suit bearing no.CS/SCJ 1395/2024 in the court of the Civil Judge, Tis Hazari Courts, Delhi and vide order dated 28.09.2024, the respondents no.2 and 3 were restrained from dispossessing the appellant from the subject property.

6.1 The respondent no.1 on 12.11.2024 affixed a notice under Section 13(4) of the SARFESI Act on the subject property. The appellant on enquiry came to know that respondent no.4 of which the respondents no.2 and 3 were the partners had availed a loan facility of Rs.7.5 crore on 20.09.2019 from the respondent no.1/HDFC Bank Limited (hereinafter referred to as “**the respondent no 1**”) and also created mortgage in respect of the subject property as well as movable assets in favour of respondent no.1. The respondent no.4 defaulted in repayment of the loan amount and due to which the respondent no.1 issued a notice dated 19.02.2024 under Section 13(2) of the SARFAESI Act to the respondents no.2 to 4 whereby called upon them to pay an outstanding amount of RS.4,20,92,231.87 along with future interest. Thereafter a notice under Section 13(4) of the SARFAESI Act was also affixed on the subject property on 22.05.2024 and second notice dated 12.11.2024 also affixed on the subject property. The appellant being aggrieved with the action taken by the respondent no.1 under Section 13(4) of the SARFAESI Act filed securitization application bearing S.A. No.25/2025 titled as **Meenakshi Goel V HDFC Bank Limited & others** on 26.12.2024 under Section 17 of the SARFAESI Act before Debts Recovery Tribunal-2, Delhi (hereinafter referred to as “**DRT-2**”). The respondent no.1 during the pendency of said S.A. also moved

an application under Section 14(2) of the SARFAESI Act before the court of the CJM, Tis Hazari Courts, Delhi seeking appointment of a receiver for taking physical possession of the subject property and the court of the CJM vide order dated 03.11.2025 appointed a receiver to take possession of the subject property. The receiver issued a notice dated 08.11.2025 whereby directed the respondents no 2 to 4 to vacate and delivered the possession of the subject property within 30 days. The appellant also sent a letter dated 19.11.2025 to the receiver intimating about orders passed by the different courts as detailed herein above. The appellant also filed an interim application under Section 17(2) of the SARFAESI Act bearing IA no 3230/2025 on 20.11.2025 before DRT-2, Delhi for seeking stay of the order dated 03.11.2025 passed by the court of the CJM and possession notice dated 08.11.2025. The appellant also filed a writ petition before the High Court of Delhi. The Link Officer of DRT-2 granted stay in favour of the appellant vide order dated 28.11.2025 and the respondent no 1 was restrained from taking physical possession of the subject property besides observing that the respondent no 1 may proceed to recover outstanding dues from other hypothecated properties. However, DRT-2 *vide* order dated 17.04.2026 (hereinafter referred to as “**the impugned order**”) dismissed the application bearing IA no 3230/2025. The relevant portion of the impugned order is produced as under:-

7. The first contention of the Ld. Sr. Advocate of the applicant is that this Tribunal vide order dated 28.11.2025 has already decided the interim prayer and has restrained the respondent from taking physical possession of the subject property and has also permitted the respondent to proceed against the other mortgaged properties of the borrower/guarantor. Therefore, there is no need to revisit the order and set aside the same. On the other hand the Ld. counsel for the respondent bank has submitted that the order dated 28.11.2025 has not been passed on the merit of the case and in that order it has been held that the respondent shall not dispossess the applicant till next date of hearing. It is submitted that in the said order it has been mentioned by the Ld. Link Officer of this Tribunal that the Tribunal cannot come to final conclusion as the matter pertains to the DRT-II, Delhi. Therefore, the order is only ad-interim and the IA of the applicant and interim prayer has not been finally decided by the Ld. Link Officer of this Tribunal. Therefore, this Tribunal has to pass an order on the IA no. 3230/2025 which has been moved by the applicant for interim injunction.

8. In this regard I have perused the order dated 28.11.2025. From perusal of the order it is clear that in the para no. 7 to 10 the Ld. Link Officer of this Tribunal has appreciated the facts and has passed the order. From perusal of para no.10 it is clear that the Ld. Link Officer of this Tribunal has observed that *"on perusal of the record it is also observed that the respondent bank has filed impleadment application before the Ld. Civil Court acknowledging the ongoing disputes and the respondent bank was well aware about the domestic violence proceedings wherein there is a status quo of the property in question. Therefore, at this stage the Tribunal cannot come to the final conclusion as the matter pertains to DRT-II. In view of the above facts and circumstances of the case, the respondent bank/Receiver is hereby restrained from taking physical possession of the property in question till next date of hearing. However, the respondent bank is free to proceed further under SARFAESI Act qua the other mortgaged properties as per law."*

9. From perusal of the above discussion it is clear that the Ld. Link Officer has not decided the contentions of the parties on the basis of the merits of the case but has observed that the final conclusion cannot be given as the matter pertains to DRT-II and further stayed the taking of possession till next date of hearing only. This shows that the matter was not heard on merits and has not been decided on merits. The IA no. 3230/2025 which was filed on 20.11.2025 and in the order dated 28.11.2025 the same IA has not been either allowed or dismissed. Therefore, this Tribunal is of the view that the order passed on 28.11.2025 is not a final order on the IA no. 3230/2025 or the interim prayer of the applicant. Therefore, this Tribunal has to decide the IA no. 3230/2025 afresh in accordance with the facts and circumstances of the case.

10. The Ld. Senior Advocate of the applicant and Ld. counsel for the respondent has argued the matter on merits and therefore, the IA no. 3230/2025 is being decided on merits.

11. The main contention of the Ld. Senior Advocate of the applicant is that the applicant is the wife and daughter-in-law of respondent no. 2 and 3 and the respondent no. 4 is the firm of respondent no. 2 & 3. It is submitted that the applicant is residing in the subject property as the wife of respondent and daughter-in-law of respondent. It is submitted that as per provisions contained under Domestic Violence Act the applicant is entitled for residence in the house of the husband and her in-laws. It is further submitted that the Court of Domestic Violence has issued an injunction against the respondent no. 2 and 3 in relation to the subject property. It is further submitted that the Ld. Civil Court also issued injunction in favour of the applicant. It is further submitted that as a wife she is entitled for her constitutional right to life under Article 21 of the Constitution and also under the principles of proportionality under provisions of the SARFAESI jurisprudence. Therefore, it is submitted that the respondent bank may proceed against the other

mortgaged properties of respondent no. 2 to 4 and not against the subject property as the applicant has a right to live in that property and injunction order is also in her favour. On the other hand the Ld. counsel for the respondent has submitted that the applicant is neither the borrower nor the guarantor of the loan and she cannot dictate the respondent bank to proceed against which property for recovery of the loan. I have considered the rival contentions of both the parties. The main contention of the Ld. Sr. Advocate of the applicant is that the applicant is that wife of respondent no. 2 and daughter-in-law of respondent no. 3 and therefore, she has right to live in the property under the Domestic Violence Act. This Tribunal cannot go into this detail as this Tribunal is not deciding the case of the applicant under Domestic Violence Act and this Tribunal has no jurisdiction to decide the same. This Tribunal cannot decide the fact that whether the applicant as a wife of the respondent no. 2 and daughter in law of respondent no. 3 has right to live in the property. It is to be decided by the competent Court. Therefore, this Tribunal is of the view that the right of the applicant cannot be decided by this Tribunal. Under Section 17 of the SARFAESI Act this Tribunal has to see whether the action taken by the respondent bank is in accordance with the provisions of the SARFAESI Act or not. If there is no violation of the provisions of the SARFAESI Act in taking action against the mortgaged property, this Tribunal has no authority to stay the proceedings initiated by the secured creditor. The applicant has not claimed that there is any violation of the provisions of the SARFAESI Act. She is only claiming that she has right to live in the property and therefore, the secured creditor has no right to proceed against the property. But this Tribunal is of the view that this ground cannot be a valid ground to restrain the secured creditor from taking action under the provisions of the SARFAESI Act. So far as the injunction order passed by the Courts is concerned, this Tribunal cannot restrain the respondent from taking action under provisions of the SARFAESI Act. If there is any violation of the order passed by any Court is concerned, the applicant may knock the door of that Court and seek appropriate remedy. But on this ground this Tribunal cannot stay the action taken by the respondent bank.

12. The next contention of the Ld. Sr. Advocate of the applicant is that there are other mortgaged property of the respondents no. 2 to 4 and the respondent bank may proceed against those properties to recover the dues. This Tribunal has no authority under any provision of SARFAESI Act to direct the secured creditor to recover the dues from any specific property. It is the prerogative of the secured creditor to choose the property from which it may recover the dues. This Tribunal cannot direct the respondent bank to recover the dues from other mortgaged properties of the respondent no. 2 to 4. Therefore, on this ground the action of the respondent bank cannot be stayed.

13. The next contention of the applicant is that the respondent no. 2 to 4 has sufficient means to repay the loan and they are deliberately not

paying the dues and therefore, the respondent no. 2 to 4 may be directed to repay the dues. It is submitted that the respondent no.4 has a turnover of around Rs. 36 Crores and the respondent no. 2 & 3 have other properties and has also gifted some properties to his nephew, therefore, the respondent no. 2 to 4 may be directed to repay the loan from other properties. This Tribunal under provisions of Section 17 of the SARFAESI Act has no jurisdiction to issue any such direction. If the respondent no. 2 to 4 has deliberately failed to repay the loan despite having sufficient means, the respondent bank has only remedy to proceed against the mortgaged properties. In no provision of the SARFAESI Act this Tribunal has any right to direct the borrower/guarantor to pay the loan from other sources of income. Therefore, on this ground the action of the respondent bank cannot be stayed.

14. The next contention of the Ld. Sr. Advocate of the applicant is that the applicant has right to life under Article 21 of the Constitution of India and therefore, she cannot be evicted from the subject property. Every citizen has a constitutional right to life but on this basis the secured creditor cannot be restrained from proceeding under the legal provisions of the SARFAESI Act. The SARFAESI Act has been enacted and the validity of the Act has already been upheld by the Hon'ble Supreme Court in Mardia Chemical case and therefore, on this ground the action of the respondent bank cannot be set aside.

In the light of the above, the prayer of applicant for grant of interim relief is liable to be dismissed. IA no. 3230/2025 is liable to be dismissed.

ORDER

The interim relief prayer of applicant is hereby dismissed and IA no. 3230/2025 is dismissed accordingly.

7. The appellant being aggrieved filed present appeal bearing no 66/2026 titled as **Meenakshi Goel V HDFC Bank & others** before this Tribunal and challenged the impugned order primarily on the grounds that DRT-2 has acted in violation of settled principles of judicial discipline. The impugned order was passed on facts and submissions which had already been considered at the time of passing the order dated 28.11.2025. DRT-2 has misread and misunderstood the order dated 28.11.2025 by observing that it was not passed on merits. DRT-2 did not appreciate that the appellant was protected by order dated 18.09.2024 passed by the court of the JMFC (Mahila Court) against the dispossession of the appellant from the subject property. The appellant is in actual physical possession of the subject property as a shared household and therefore her right to residence in the subject

property is an independent statutory right which is not dependent upon the ownership of title of the secured creditor. SARFAESI Act cannot be used as a tool to defeat the protection available to the appellant under the social welfare legislation. The appellant has also challenged the impugned order on various other grounds. It was prayed that the impugned order be set aside.

8. Ms. Prem Lata Bansal, Senior Advocate advanced arguments on behalf of the appellant. Sh. Kashish Narang and Ms. Deboshree Saha, Advocates for the respondent no. 1 and Sh. Atul Gupta, Advocate for the respondents no 3 and 4 also advanced arguments. Record besides written submissions also perused.

9. Ms. Prem Lata Bansal, Senior Advocate for the appellant advanced multi-fold arguments besides narrating factual position of the case. The Senior Advocate argued that the appellant falls within the ambit of Section 17(1) of the SARFAESI Act which provides that any person including the borrower may approach the DRT if aggrieved by any of the measures taken by the secured creditor under Section 13(4) of the SARFAESI Act. The appellant is in actual physical possession of the subject property as matrimonial house and shared household and the proceedings initiated by respondent no.1 under Section 13(4) of the SARFAESI Act has threatened her right to reside therein. The Senior Advocate vehemently argued that the appellant is aggrieved person under Section 17(1) of the SARFAESI Act and as such the present appeal is maintainable. It was further argued that the appellant was protected by two separate judicial orders dated 18.09.2024 and 28.09.2024 which restrained the respondents no 2 and 3 from dispossessing the appellant from the subject property and DRT-2 has not considered these orders while passing the impugned order. The Senior Advocate placed reliance on decision delivered by the Supreme Court in **Vishal N Kalsaria V Bank of India**, (2016) 3 SCC 762 (SC) wherein it was held that the SARFAESI Act cannot be used as a tool to defeat the statutory protection available under social welfare legislation. The Senior Advocate further argued that the Link Officer, DRT-II had passed a reasoned order dated 28.11.2025 on merits and granted interim protection to the appellant but DRT-II, Delhi vacated the said interim order without any application being filed by the respondents for vacation of stay as well as without there being any change in

the circumstances. The Senior Advocate further argued that the appellant is having statutory right of residence in the said property since 2014 as her matrimonial home and to substantiate the said argument relied upon **Satish Chander Ahuja V Sneha Ahuja**, (2021) 1 SCC 414 (SC) and **Khushwant Kaur V Gagandeep Sidhu**, Crl. Rev. P.219/2021 decided on 16.10.2025. The Senior Advocate also argued that there is connivance between the respondent no 1 and the respondents 2 to 4 as the respondent no 1 has not proceeded against the stock worth Rs.14 crores which has been hypothecated as security with respondent no.1. Lastly, it was argued by the Senior Advocate that *prima facie* case exists in favour of the appellant and the balance of convenience is also in favour of the appellant and if the interim protection is not granted, it would cause irreparable loss and injury to the appellant. It was ultimately argued that the present appeal be allowed.

10. The counsel for respondent no.1 argued that the appellant does not have any *locus standi* to file the present appeal as she is not the borrower, the mortgagor or the guarantor to the loan transaction which was executed between respondent no.4 and the respondent no 1 and the respondent no.3 stood as guarantor. The appellant is not the owner of the subject property and the present appeal is filed to frustrate the claim of respondent no.1 by raising claim of residence in respect of the mortgaged property. The counsel for the respondent no.1 vehemently argued that the security interest was created in favour of respondent no.1 which cannot be defeated due to *inter se* matrimonial dispute between the appellant and respondents 2. The subject property was mortgaged with the respondent no.1 as collateral security against the credit facility availed by respondents no 2 to 4. There was no collusion between the respondent no.1 on one hand and respondents no.2 to 4 on the other hand. The respondent no.1 being the secured creditor in exercise of statutory rights under the SARFAESI Act has initiated legal proceedings. The counsel for the respondent no.1 has placed reliance on the judgment delivered by the Kerala High Court in **Darby Shajan V Shajan Thomas**, WP(C) No.27669/2025 decided on 07.08.2021. It is also argued that the SARFAESI Act is having overriding effect and to support this argument reliance was placed on the judgments delivered in **Ammini Peter V Union of India**, WP(C) No.36347/2025 (P) decided by Kerala High Court on 25.05.2016, **Kolla**

Nehrumala V Bank of Maharashtra, Writ Petition No.6647/2022 decided by the Andhra Pradesh High Court and **Harshad Govardhan Sondagar V Internl. Assets Reconstrn. Co. Ltd.** SLP(Crl) No.1666/2012 decided by Supreme Court on 03.04.2014. It is also argued that the jurisdiction of the civil court is barred in the matters covered under the SARFESI Act.

11. The counsel for the respondents no.3 and 4 argued that the order dated 18.09.2024 passed in petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 and the order dated 25.09.2024 passed by the Civil Court do not confer any superior and independent right in favour of the appellant against the secured creditor for initiating proceedings under the SARFAESI Act. The counsel for the respondents 3 and 4 also relied upon the judgements as cited by counsel for respondent no.1. The counsels for the respondents ultimately argued that present appeal be dismissed.

12. It is reflected that there is matrimonial differences between the appellant and the respondent no 2. The respondent no.3 is the owner of the subject property. The respondent no.4 is a partnership firm of which respondents 2 and 3 are the partners. The Mahila Court vide order dated 18.09.2024 and civil court vide order dated 28.09.2024 have restrained the respondents no.2 and 3 from dispossessing the appellant and her minor daughters from the shared household, i.e. the subject property till further orders. The respondent no.4 has availed a loan facility of Rs.7.50 crores from the respondent no.1 and mortgaged the subject property and movable assets of respondent no.4. The respondent no.4 could not stick to the financial discipline and defaulted in the repayment of the loan. The loan account was declared NPA on 16.11.2023. The respondent no.1 initiated legal proceedings under the SARFAESI Act for recovery of its dues and issued a notice dated 19.02.2024 under Section 13(2) of the SARFAESI Act wherein a demand of Rs.4,20,92,231.87 with future interest was raised. The respondent no.1 also affixed a notice under Section 13(4) of the SARFAESI Act on the said property on 22.05.2024 and subsequently another notice dated 12.11.2024 was also affixed on the said property. The appellant filed the present S.A. bearing No.25/2025 to challenge the actions taken by the respondent no.1 under Section 13(4) of the

SARFAESI Act. The Link Officer of DRT-2, Delhi vide order dated 28.11.2025 on application bearing IA No.3230/2025 had granted injunction against dispossession in favour of the appellant. DRT-2, Delhi, however, vide the impugned order dated 17.04.2026 has dismissed the application bearing I.A. No.3230/2025.

13. The prime contention of the appellant and also argued by the Senior Advocate is that the appellant is having *locus standi* to file present SA application/appeal in view of Section 17(1) of the SARFAESI Act. Section 17(1) of the SARFAESI Act provides that any person including borrower aggrieved by any measure under Section 13(4) of the SARFAESI Act to be taken by the secured creditor may make an application to the DRT for appropriate relief. The appellant claims to be in physical possession of the subject property being her matrimonial home and shared household and any security enforcement proceedings initiated by respondent no.1 under Section 13(4) of the SARFAESI Act has directly threatened her right to reside in the subject property particularly in view of two judicial orders as detailed hereinabove. The appellant as such is the '**person aggrieved**' within the meaning of Section 17(1) of the SARFAESI Act and as such entitled to file present appeal under Section 17(1) of the Act. There is force in the argument advanced by the Senior Advocate for the appellant that the appellant is having *locus standi* to file present appeal.

14. The respondent no 4 has availed loan facility from the respondent no 1 and the respondent no 3 mortgaged the subject property as security. The respondent no 4 defaulted in repayment of loan amount. The respondent no 1 initiated legal proceedings under SARFAESI Act. The appellant is residing in the subject property. The appellant was granted injunction orders vide order dated 18.09.2024 and 28.09.2024 in respect of subject property which were passed by two courts of different jurisdictions as detailed herein above but these orders were not against respondent no.1 and passed against respondents no.2 and 3. The appellant is not the owner of the subject property. The appellant is only claiming her right in the subject property being her matrimonial home and shared household. The Supreme Court in **Vishal N Kalsaria V Bank of India** as cited by the Senior Advocate for

the appellant observed that the SARFAESI action cannot be used as tool to defeat the statutory protection available under social welfare legislation but the respondent no.1 being secured creditor has initiated legal proceedings for taking the possession of the secured asset i.e. the subject property strictly in accordance with law, i.e. under the various provisions of the SARFAESI Act. The Kerala High Court in **Darly Shajan V Shajan Thomas** which is also cited by the counsel for the respondent no.1, specifically observed that the Protection of Women from Domestic Violence Act, 2005 cannot overcome the right of the secured creditor to take the possession of the secured asset under the SARFAESI Act and the same legal view was also reiterated in **Ammini Peter V Union of India**. The respondent no.1 being the secured creditor in respect of the secured asset i.e. the subject property has already acquired substantial right under the SARFAESI Act and is having every right to recover outstanding dues from respondent no.4 and the secured assets, i.e. the subject property. The appellant cannot take protection under the two judicial orders as detailed hereinabove. The specific rights acquired by the respondent no 1 under SARFAESI Act due to non-payment of loan amount cannot be override by legal provisions as contained in the Protection of Women from Domestic Violation Act, 2005. There is no legal force in the argument advanced by the Senior Advocate for the appellant that the appellant is protected against the respondent no 1 by virtue of two injunction orders and decision in **Vishal N Kalsaria V Bank of India** also does not provide any assistance to the contention of the appellant.

15. The Senior Advocate of the appellant also contended that the Link Officer of DRT-II, Delhi has considered all the contentions of the appellant on merits in the order dated 28.11.2025 whereby interim protection was granted to the appellant. The perusal of order dated 28.11.2025 reflects that the Link Officer, DRT-2, Delhi vide the order dated 28.11.2025 only restrained the respondent no.1/the receiver from taking possession of the subject property only till the next date of hearing but simultaneously also observed that the respondent no.1 is free to proceed under the SARFAESI Act qua other mortgaged properties. DRT-2, Delhi vide the impugned order has finally decide the application being I.A. No.3230/2025 on merit after considering the rival contentions of the parties. The impugned order

cannot be said to be overreaching in rehearing of the issues raised by the parties in terms of order dated 28.11.2025. There is no force in the argument advanced by the Senior Advocate for the appellant that DRT-2 while passing impugned order has overreached the order dated 28.11.2025.

16. The appellant claims statutory right of residence to live in subject property. There cannot be any dispute regarding the applicability of various provisions of the Protection of Women from Domestic Violence Act, 2005 in favour of the appellant and order passed thereunder in favour of the appellant but the respondent no.1 has initiated legal proceedings under the SARFAESI Act. The right of respondent no.1 under the SARFAESI Act and the right of the appellant under the Protection of Women from Domestic Violence Act are not in conflict with each other and are independent in operation. However, the right of the respondent no.1 under the SARFESI Act cannot be defeated by the operation of the Protection of Women from Domestic Violence Act, 2005. There is as such no force in the contention of the appellant and also argued the Senior Advocate for the appellant to this effect. DRT-2 has rightly observed that the DRT cannot decide the right of the appellant to live in the subject property under the Protection of Women from Domestic Violence Act, 2005 and that the respondent no.1 has taken the legal action as per the SARFAESI Act and that there was no violation of the provisions of the SARFAESI Act on the part of the respondent no.1.

17. The appellant also pleaded connivance and collusion between respondent no.1 on the one hand and the respondents 2 to 4 on the other hand. The appellant also pleaded that respondent no.1 may recover its dues from other properties except the subject property. The appellant cannot dictate the respondent no.1 about the modalities of the recovery of outstanding dues against the respondents no 2 to 4 and cannot ask the respondent no.1 being financial institution to recover its outstanding dues from one particular property immovable or moveable. The respondent no 1 being financial institution is having every right to decide about the property against which it wants to recover outstanding dues and it cannot be controlled or decided by third party like the appellant in the present case. There is also no convincing evidence of collusion between the respondent no 1 and the respondents no 2 to 4.

There is no merit in these arguments advanced on behalf of the appellant. DRT-2 was also right in observing that no direction can be issued to the respondent no.1 financial institution to recover its dues from other mortgaged properties of respondents no 2 to 4 except the subject property.

18. The arguments advanced on behalf of the appellant as detailed and discussed are without any legal force. DRT-2 in the impugned order dated 17.04.2026 has considered all the contentions raised on behalf of the appellant in detail. There is no illegality or infirmity in the impugned order passed by DRT-2 which was passed after due consideration of factual and legal positions. The impugned order does not warrant any interference from this Tribunal and is accordingly upheld. Hence, the appeal is dismissed. It is made clear that nothing in this order shall affect the other legal proceedings initiated by the appellant as detailed hereinabove.



(Dr. Justice Sudhir Kumar Jain)
Chairperson

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