

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN

(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

DATED THIS THE 19th DAY OF JUNE, 2026

HON'BLE PRESIDING OFFICER: SH. UMESH KUMAR SHARMA

S.A. No. 210 of 2025

Between:

1. M/s Kumar Industries situated at 201, Naveen Mandi Sthal, Harijan Industrial Estate, Muzaffarnagar, Uttar Pradesh-251001.
2. Satendra Kumar S/o Sh. Surendra Kumar, R/o 844/1, Yogendra Puri, Muzaffarnagar, Uttar Pradesh- 251002 bearing PAN No. ADBPK2066Q.
3. Monika Singhal W/o Sh. Satendra Kumar, R/o 844/1, Yogendra Puri, Muzaffarnagar, Uttar Pradesh- 251002 bearing PAN No. AFNPS0542K.

.....Applicants

Versus

1. State Bank of India, Stressed Asset Recovery Branch (SARB) 2nd Floor, Ajeet Complex Saharanpur Road, Dehradun, Uttarakhand-248001.
2. State Bank of India, SME Branch, Jansath Road, Muzaffarnagar, Uttar Pradesh-251001.

.....Respondent Bank

Sh. Atul Kumar S/o Sh. Raj Singh, R/o Salawa, Meerut, Uttar Pradesh- 250342. **(Auction Purchaser Appeared)**

Sh. Vivek Kumar, Counsel for Applicants

Sh. Shantanu Gaur, Counsel for the Respondent Bank

Sh. Rohit Dhyani, Ld. Counsel for the Auction Purchaser

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN

(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
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S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

J U D G M E N T

(Date of Decision: 19.06.2026)

1. The Applicants have filed this Securitization Application on 23.07.2025 under Section 17(1) of Securitization and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 challenging the action of the Respondent Bank initiated under S.A.R.F.A.E.S.I. Act, 2002.
2. That the present Securitisation Application is filed against the Respondent Bank as the Respondent Bank have initiated measures under various provisions of the SARFAESI Act, 2002 wherein a Notice dated 10-07-2025 was served upon the Applicant's by the Respondent Bank for taking over the Physical Possession of the property with the assistance of the Police at Muzaffarnagar on 30-07-2025 and as such the present Securitisation Application is well within limitation.
3. That one SA No 142/2023 titled as M/s Kumar Industries & Ors Vs State Bank of India was filed on 26-05-2023 by the Applicant before the Hon'ble DRT under Section 17 (1) of the SARFAESI Act, 2002 challenging therein the Physical Possession Notice dated 10-04-2023.
4. That one Writ Petition No 13076/2023 was filed before the Hon'ble High Court of Judicature at Allahabad seeking therein not to recover the outstanding amount and directing the Respondent Bank to accept the outstanding dues in easy instalments which was by the Order dated 19-04-2023 was passed directing the Applicants to deposit 15% of the total amount of Rs.2,24,70,736.30ps as stated by the Counsel of the Respondent Bank and the remaining amount to be deposited in two (2) instalments within six (6) months from the date of Order dated 19-04-2023.

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN
(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

5. That subsequently, The Applicants filed one another Writ Petition No 16394 / 2023 before the Hon'ble High Court of Judicature at Allahabad seeking mandamus for the Respondent Bank to accept the outstanding dues as per OTS and further not to sell the property and modify the Order dated 19-04-2023. The said Petition was disposed off by the Hon'ble High Court of Judicature at Allahabad vide its Order dated 15-05-2023 stating therein and leaving the decision between the parties to settle OTS amongst themselves.
6. That the Respondent Bank has filed one OA No 85/2020 before the Hon'ble DRT, Dehradun against the Applicants and the Judgment /Order dated 07-11-2022 was passed directing the Applicants to pay a total sum of Rs.1,73,48,437.15ps alongwith future interest @8.85% per annum simple rate of interest from 04-02-2020 till the date of actual realisation alongwith costs and expenses.
7. That thereafter one Recovery Certificate No 441/2022 is pending recovery before the Ld. Recovery Officer-I at DRT, Dehradun and next date of hearing is 31-07-2025 in the said Recovery Certificate.
8. That subsequently the Applicant filed one OTS proposal dated 17-09-2023 with the Respondent Bank and offered for an OTS amount of Rs.1,16,00,000/- (Rupees One Crore Sixteen Lacs only) and an amount of Rs.11,00,000/- (Rupees Eleven Lacs only) under protest was deposited through RTGS.
9. That the Respondent Bank accepted the said OTS vide its letter dated 03-10-2023 and further it was agreed upon between the Parties that the consent decree shall be obtained pursuant to the factum, that the OA was already decreed and the Judgment Order was delivered.

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN
(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

10. That thereafter due to the medical condition of the mother of the Applicant, the Applicant could not deposit the amount of OTS and as such wrote a Letter dated 02-02-2024 seeking permission to deposit an amount of Rs.15,00,000/- (Rupees Fifteen Lacs only).
11. That thereafter the Applicant was in regular touch with the Bank in consideration to the OTS but the Bank regularly avoided to the Applicant on one pretext or the other and as such the matter was kept in abeyance by the Respondent Bank.
12. That subsequently on 26-06-2025 the Respondent Bank informed the Applicant that the Respondent Bank has already obtained the Order dated 21-09-2022 from the Ld. ADM (F&R), Muzaffarnagar for the physical possession of the property and as such the Applicant immediately contacted his local Counsel and applied for the Certified Copy of the same on 27-06-2025 which was issued by the copying department on 15-07-2025.
13. That on the other hand the Respondent Bank issued one Notice dated 10-07-2025 intimating to the Applicant for taking the physical possession of the property by virtue of the Order dated 21-09-2022 on or before 30-07-2025.
14. That there is no deliberate intention on the part of the Applicant to avoid his liability and as such the Applicant is ready to pay the outstanding amount of the OTS Proposal as per OTS proposal dated 17-09-2023 alongwith simple rate of interest for the delayed period.
15. That the Respondent Bank is harassing the Applicant by way of dispossessing the Applicant from the property which is a dwelling unit and only earning source of income and there is no other efficacious remedy available to the Applicant but to approach the Hon'ble Debt Recovery Tribunal, Dehradun.

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN
(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

16. The Respondent Bank has already damaged the goodwill of the Applicant by resorting to the provisions of SARFAESI Act. The Applicant has strong prima-facie case and if the interim relief is not granted, the Applicant shall suffer irreparable loss. The balance of convenience also lies in favour of the Applicant and against the Respondent Bank.

The during pendency of this Securitization Application the respondent bank has issued auction sale notice. The applicant has filed application by diary No.5946 dated 30.10.2025 in relation to sale notice dated 22.09.2025 by saying that the respondent bank has issued sale notice dated 22.09.2025 received by the applicants on 25.09.2025, scheduled date for E-auction is 16.10.2025 submitted on record with tracking report also. And also raised point of publication and affixation with reserve price. It is also mentioned in the application that the sale certificate has already been issued but not provided details to the applicants and claimed just and proper relief.

After that an impleadment application for impleading auction purchaser has been filed by diary No. 5980 of 01.11.2025, which was allowed by the Tribunal.

17. After issuance of notice Respondent Bank appeared on 31.07.2025 and submitted objections on 20.11.2025 after auction of the property in question and stated that the present S.A. is liable to be dismissed as the Application has been filed beyond limitation and is time barred. The Applicant has not approached the Hon'ble Tribunal with clean hands and have concealed material facts and information from the Hon'ble Tribunal.
18. That the applicants on the other hand is also challenging Demand Notice, Possession Notice and Ld. DM Order which is time barred as the same is not filed within the limitation as per the SARFAESI Act.

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN
(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

19. That in view of above facts and circumstances the applicants by concealing the true facts of the case from the Hon'ble DRT and to get a favourable order by misrepresentation and are lingering on the recovery proceedings of the Bank on one pretext or the other, which is liable to be dismissed with costs in favour of the answering Respondent Bank.
20. The Applicant failed to bring real facts on record for the reasons best known to the Applicants. In fact the Applicants on failure to comply order dt. 19-04-2023 passed in WP 13076/2023 tried to engage into forum bargaining and approached the Hon'ble High Court and tried his luck by asking the direction to the Respondent Bank for accepting OTS offer which plea was accordingly declined being meritless.
21. The Applicant failed to comply the special preference given under OTS and thus cannot harp on the same tune again and again. The Applicant was supposed to honour the Hon'ble High Court Order dt. 19-04-23 and OTS terms and conditions which the Applicants failed to comply time and again. The Applicants are well aware about the fact that failure to comply OTS terms and conditions amounts to nullification of Settlement and the same cannot be re-written by letters and hollow promises.
22. The Applicant has concocted false story just to take benefit of the limitation clause, thus the Applicants be put to strict proof of the averments made therein. The applicants were having knowledge about the recovery proceedings since beginning and that's why trying to settle matter having no genuine commitment to repay the outstanding dues of the Bank.
23. The Applicant cannot be permitted to raise time barred plea and the same is not tenable under the law. The Applicants cannot simply challenge SARFAESI proceedings initiated by the Bank

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN
(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarkahand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

without giving valid grounds of challenge specifically and without showing material non-compliance on the part of the Respondent Bank.

24. Further the OTS has to be accepted in letter and spirit and cannot be varied on terms and conditions unilaterally, thus the benefit of OTS cannot be given to the Applicant who has no genuine intention to repay it's outstanding to the Bank and also failed to honour not only the OTS terms and conditions but flouted the Hon'ble High Court directions which cannot be condoned by way of representation in the present SA. The Applicant was always having knowledge about the SARFAESI proceedings of the Bank and averment as made in the above para is in contradiction to the contents of other paras of the present SA and the Applicant without crossing the hurdle of limitation without filing any application for the condonation of delay and without raising objection within time granted as per the SARFAESI Act, 2002 cannot be permitted to raise the same at such belated stage. The application of the Applicant is liable to be dismissed on this ground too. The Applicant is well aware about the constraints in provisioning of time in liquidation of outstanding and putting the recovery proceedings on hold for indefinite time and still harping on same tone, which no intention to repay the dues of the Bank.
25. The Law does not permit to come before Hon'ble High Court and Hon'ble Tribunal in an unfair manner by concealing material facts. The Law also does not permit to seek equitable relief. The law also does not favour those who keep sleeping over their rights and choose not to seek legal remedy vigilantly and timely. The Applicant failed to exhibit throughout the Securitization Application, the violation of SARFAESI Act and its provisions, and thus the present Application is liable to be dismissed on this ground alone. Moreover the Applicant's SA does not speak about

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(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

any irregularity about the SARFAESI proceedings inspite of having every information and knowledge about the proceedings, but however to comply the directions, the Bank is filing the copy of Demand notice dt. 29.08.2019 as Annexure I, Copy of Possession Notice dt 13.12.2019 as Annexure II, copy of Auction Sale notices dt 10.03.2021 & 22.09.2025 s Annexure III copy of Valuation report dt 04.08.2025 as Annexure IV and Copy of Certificate of Sale as Annexure V. The copy of calculation sheet is enclosed as Annexure VI.

It is further submitted that aforesaid SA had been filed by Applicants on false facts and in sheer abuse of process of law and same is not tenable and is liable to be dismissed in limine with exemplary costs.

26. The auction purchaser has filed written statement by diary No. 6736 dated 18.10.2025 and stated that the Securitization Application is liable to be dismissed, challenging demand notice, possession notice and Ld. District Magistrate order which is time barred. The applicants concealing true facts and failed to bring real facts on record. The applicants on failure to comply order dated 19.04.2023 passed in W.P. 13076/2023 tried to engage into forum bargaining and mentioned other pleas like respondent bank. The auction purchaser has also stated that the answering defendants have successfully purchased the property of applicant and a sale certificate dated 23.10.2025 has been issued in their favour.
27. In this matter, there is no need to examine the version of applicants in relation to notice U/s. 13(2) and 13(4) of SARFAESI Act as the account in question was classified as NPA on 28.08.2019 and original Application filed by applicant bank for an amount of Rs.1,73,48,437.15ps with interest etc. on 07.11.2022 also. The applicants have already approached Hon'ble High Court

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN
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(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

two times and the respondent bank has also provided opportunity to the applicants through 'One Time Settlement'.

28. The situation has shown that the applicants have not come forward for repayment of borrowed money/awarded amount after providing opportunity by Hon'ble High Court and the bank authorities through 'OTS' and again come before the Tribunal by saying that the applicants want to comply 'OTS' after failure on the part of applicants on receiving notice for physical possession with the prayer for compliance of 'OTS' also. There is no provision in SARFAESI Act to provide again period for payment of amount in relation to "One Time Settlement" in case of SARFAESI action by the Tribunal.
29. Two points are considerable in this matter only:
- I. Whether the action in relation to physical possession is valid in the eye of law as per provisions of SARFAESI Act on the basis of order passed by Ld. ADM concerned U/s. 14 of the SARFAESI Act?
 - II. Whether auction sale notice in question is valid in the eye of law?
30. The order was passed by Ld. ADM concerned U/s. 14 of the SARFAESI Act dated 21.09.2022 is legally valid in the light of provisions of S.14 of the SARFAESI Act should be examined first.

The Ld. ADM concerned has passed order as under:-

बैंक के प्राधिकारी अधिकारी को यदि कब्जा लेने के लिये पुलिस सहायता की आवश्यकता हो, तब वह वरिष्ठ पुलिस अधीक्षक से उनकी निर्धारित प्रक्रिया के अंतर्गत पुलिस सहायता के लिये अनुरोध कर सकते हैं एवं यदि बंधक सम्पत्ति पर ताला लगा है तो बैंक के प्राधिकृत अधिकारी नियमानुसार ताला तोड़ने की कार्यवाही भी पुलिस बल की उपस्थिति में सरफेसी एक्ट के अन्तर्गत कर सकते हैं।

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN

(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

S.14(1) of SARFAESI Act says: Where the possession of any secured assets is required to be taken by the secured creditor or if any of the secured assets is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured assets, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may be, the District Magistrate shall, on such request being made to him—

- (a) take possession of such asset and documents relating thereto; and
- (b) forward such asset and documents to the secured creditor:

Sub-section(1-A) of S.14 (inserted by Act 1 of 2013) specifically says that the District Magistrate or the Chief Metropolitan Magistrate may authorize any Officer Subordinate to him,

- (i) to take possession of such assets and documents relating thereto; and
- (ii) to forward such assets and documents to the secured creditors:

The above provisions has clarified that any order or action in contravention of the said provisions shall have no legal force and the Ld. District Magistrate and the bank authorities are duty bound to comply the said provisions in toto.

31. In the case in hand, the inventory has been made by Ld. Authorized Officer and not signed by any independent witness, only signed on separate sheet by three persons of enforcement agency, Sh. Anurag Jhughntia, SARB Dehradun and one S.I. of

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN
(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarkahand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

police in absence of borrower, i.e. physical possession was taken in absence of borrower on 12th September 2025 even though notice dated 10.07.2025 was sent by Ld. Authorized Officer for 30.07.2025 submitted by applicant as Annexure SE-8 with the petition. Nothing has been submitted on record on the part of respondent bank about information of physical possession dated 12.09.2025 to the applicants as no action for physical possession was taken by respondent bank on the basis of notice dated 10.07.2025, in that case, the information should be given to applicants about 12.09.2025. Even though the Authorized Officer was duty bound to approach Ld. ADM concerned for correction of defects of the order by passed U/s. 14 of the SARFAESI Act.

The borrower was not present at the time of taking action for physical possession as mentioned on page 25 of objections 'borrower not present' but nothing has been mentioned about the property in question whether locked or unlocked, directly mentioned in inventory about movable assets.

32. There is no provision in SARFAESI Act, by which the Ld. Authorized Officer was entitled to use enforcement agency for taking physical possession in existence of specific provision in SARFAESI Act for physical possession and not entitled to take physical possession directly in the light of provisions of S.14 of the SARFAESI Act, when the possession was taken on the strength of S.14 of the SARFAESI Act. The Ld. Authorized Officer has acted in violation of provisions of SARFAESI Act for taking action in relation to physical possession by using enforcement agency, directly and without informing applicants about the said date.

The action on the part of Ld. Authorized Officer for physical possession dated 12.09.2025 was totally against the provision of law and the procedure adopted by Ld. Authorised Officer was not acceptable. So the action in relation to physical

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN

(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

possession is not sustainable in the eye of law. The action of Ld. Authorised Officer in relation to taking physical possession is liable to be quashed. Hence quashed.

33. The respondent bank has issued auction sale notice on 22.09.2025 for 16.10.2025 after taking physical possession on 12.09.2025, sent to applicants on 23.09.2025, received to the applicants on 25.09.2025 as stated by applicants and tracking report has also been submitted. No date of publication is clear even though written by hand "Times of India" on English publication and "Amar Ujala" on Hindi publication, but nothing has been mentioned about date of publication in objections also.
34. The auction purchasers have filed written statement through Sh. Atul Kumar, one of the auction purchaser, only stated about issuance of sale certificate dated 23.10.2025 and also mentioned previous situation, what has been taken place prior to issuance of sale notice in question between the bank and borrowers but nothing mentioned about knowledge of auction sale notice in question from what source he has come to know about auction sale in question as nothing clear about date of publication as per record submitted by respondent bank.
35. The Hon'ble Supreme Court in *K. Kumara Gupta Vs Sri Markendaya & Sri Omkareswara Swamy Temple* [(2022) 5 SCC 710] has held that if it is found that there is material irregularity and/or illegality in holding the public auction or the auction was vitiated by any fraud or collusion, it would be open for the Court to set aside the auction or sale in the favour of the highest bidder, even though their representation was made by third party who even did not participate in the auction proceedings or make any offer.

In M.R. Vashumathi Vs The Authorised Officer & Ors Civil Appeal No. 1606 of 2026 decided on 09.06.2026, the Hon'ble

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN
(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

Supreme Court has laid down that the mere factum that the sale stood confirmed cannot, therefore, foreclose judicial scrutiny. In the said case, the auction held in March 2010 and sale certificate was issued in April 2010, the physical possession had also been transferred to auction purchaser. The appeal was allowed by Hon'ble Court on the basis of material irregularity in procedure and also held that the object of proceedings under the SARFAESI Act is not the mere culmination of a sale in a mechanical manner, but the lawful realization of the secured asset through a process that is fair, transparent and strictly complied with the prescribed rules.

It is admitted to the respondent bank as submitted on record and mentioned in objections that previous auction sale notice was issued on 10.03.2021 and thereafter auction sale notice in question is issued on 22.09.2025 for 16.10.2025. The sale notice in question was issued by providing a period of less than 30 days. As the service on applicants has taken place on 25.09.2025, the sale notice in question was of 15 days sale notice (issued on 22.09.2025 for 16.10.2025).

36. The Hon'ble Supreme Court has held in Civil Appeal No.(S) 1927-1929 of 2014 Mathew Varghese Vs. M. Amritha Kumar & Ors. as under:

Rules 15 of Income Tax Rules 1962, does not in any way conflict with either Rules 8 or 9 of The security Interest(Enforcements) Rules, 2002 or Section 13 of the SARFAESI Act, in particular Sub Section (1) or Sub Section (8) of the SARFAESI Act. Therefore, to that extent there is no difficulty in applying Rule 15. As far as Sub Rule (2) is concerned, the same is clear to the effect that a sale of immovable property once adjourned under Sub Rule (1) for a longer period than one calendar month, a fresh proclamation of sale should be made unless the defaulter consents to waive

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN

(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

it. The said sub rule also does not conflict with any of the provisions of the SARFAESI Act, in particular Section 13 or Rules 8 & 9. In fact there is no provision relating to grant of adjournment or issuance of fresh proclamation for effecting the sale after the earlier date of sale was not adhered to in the SARFAESI Act. In such circumstances going by the prescription contained in Section 37 of the SARFAESI Act, as we have reached a conclusion that the provisions contained in Section 29 of the RDDB Act will be in addition to and not in derogation of the provisions of the SARFAESI Act, the provisions contained in Rule 15, which is applicable by virtue of the stipulation contained in Section 29 of the RDDB Act, whatever stated in sub Rule (2) of the Rule 15 of Income Tax Rules, 1962 should be followed in a situation where a notice of sale notified as per Rules 8 and 9 (1) of the Securitization Trust Rules, read alongwith Section 13(8) gets postponed.

37. As per principle laid down by Hon'ble Supreme Court that Rule 15 of Income Tax Rules, 1962 is applicable in SARFAESI action. In this matter, the auction sale notice in question should be issued afresh as the auction sale was adjourned for more than four and half years from the date of previous sale notice. The auction sale notice in question was not issued as per principle laid down by Hon'ble Supreme Court in Mathew Varghese's Case (Supra). The auction sale in question is not sustainable in the eye of principle laid down by Hon'ble Supreme Court.

The auction sale notice in question was issued on 22.09.2025 for 16.10.2025, and published, nothing clear about date of publication.

The said act of the respondent bank has curtailed the right of redemption of the borrower/guarantor provided under section 13(8) of SARFAESI Act as held by Hon'ble Debts Recovery Appellate Tribunal, Allahabad in Appeal diary No. 637 of 2022, Sandeep Dogra Vs State Bank of India decided on 04.07.2023.

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN

(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
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S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

38. The Hon'ble Supreme Court has also laid down in M. Rajendran & Ors Vs M/s KPK Oils and Proteins India Pvt. Ltd. & Ors. Civil Appeal No. 12174 of 2025 decided on 22nd September 2025 that the right of redemption is not a contractual right and rather a statutory right. Even under the SARFAESI Act, the right of the redemption has been statutorily recognized and given effect to in S.13(8) of the SARFAESI Act.
39. In the light of principles laid down by Hon'ble Supreme Court and Hon'ble Debts Recovery Appellate Tribunal, Allahabad, in the opinion of the Tribunal, the auction sale notice in question is not sustainable and liable to be quashed with some conditions by considering the conduct of applicants also. Hence quashed accordingly.
40. After considering conduct of the applicants with circumstances of this case as discussed above and held in the preceding paragraphs of this judgment on the basis of principles laid down by Hon'ble Supreme Court and Hon'ble Debts Recovery Appellate Tribunal, the prayer in relation to physical possession and auction sale notice in question of the applicants is allowed as under:
1. The applicant shall repay an amount of Rs.1,25,00,000/- (Rupees One Crores Twenty-Five Lacs only) within a period of 30days first, subject to the repayment of the above amount, the action of physical possession and auction sale notice in question as well as auction dated 16.10.2025 are set-aside and subsequent actions thereof. Consequently the Securitization Application is allowed accordingly.
 2. After receiving the above amount, the respondent bank shall return the auction money alongwith interest @8% per annum simple from the date of deposition till the

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN

(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No. 210 of 2025

M/s Kumar Industries & Ors. Vs State Bank of India & Anr.

date of payment to the auction purchaser and the respondent bank shall also return physical possession of the property in question within fifteen days from the date of deposit of Rs.1,25,00,000./- (Rupees One Crore Twenty-Five Lacs only) by applicants.

3. After repayment of amount as per clause(1) by applicants, the respondent bank shall provide details of dues against the applicants after adjustment of amount as per award within a period of 30 days and again the applicant shall repay within 30 days from the date of receiving details.

41. In case of non-payment on the part of applicant, the respondent bank shall be entitled to take action for recovery of awarded amount in accordance with law.
42. This judgment shall not come in the way of settlement between the parties, if the parties want to settle the matter amicably.
43. Interim order, if any, vacated. All interim applications, if any pending, are also disposed off accordingly.


No order as to costs.

Record be consigned, after providing copy of this judgement to the parties as per rules.

Judgment pronounced in open Tribunal.

If any party feels grievance by this Judgment may approach Hon'ble Debts Recovery Appellate Tribunal, Allahabad in appeal under section 18 of the S.A.R.F.A.E.S.I. Act, 2002.

Dated: 19.06.2026


(Umesh Kumar Sharma)
Presiding Officer
DRT, Dehradun