2026:CGHC:23425

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPC No. 2651 of 2026**

Smt. Basanti Bai Jain W/o Shri Shubash Chand Jain Aged About 65 Years Navkar Parishar, Azad Ward No. 37 Ganjpara Chowk, Tahsil- Durg District- Durg (C.G.), Chhattisgarh

**... Petitioner(s)**

**versus**

**1 -** Central Bank Of India Through Its Power Of Attorney Holder, Rajiv Singh, Posted As Chief Manager, Central Bank Of India Branch Civil Lines Raipur (C.G.)
**2 -** The Branch Manager Central Bank Of India, Radhika Nagar, District- Durg (C.G.)
**3 -** R.S. Enterprises Through Its Proprietor Subhash Chand Jain Navakar Parishar Ganjpura District- Durg (C.G.)
**4 -** Subhash Chand Jain S/o Shri Heeralal Jain Navakar Parishar Ganjpura District- Durg (C.G.)

**... Respondent(s)**

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| For Petitioner(s) | : | Mr. Gyan Prakash Shukla, Advocate. |
| For Respondent(s) | : | None. |

**Hon'ble Shri Justice Narendra Kumar Vyas**

**Order on Board**

**21/05/2026**

1. The petitioner who is guarantor towards the loan obtained by borrower i.e. respondent No. 4-Mr. Shubhas Chand Jain, has preferred the present petition under Article 226 of the Constitution of India for assailing the notice dated 23.01.2026 issued by the respondents/Central Bank of India under Rule 8(a) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “the SARFAESI Act”) against the borrower as well as the guarantor towards recovery of loan.

2. Learned counsel for the petitioner would submit that as per Balance

Confirmation communication (Annexure P/11) issued from the Central Bank of India, Branch – Radhikanagar, the petitioner who is the guarantor is liable for payment of guarantee dated 11.03.2015 to the extend of Rs.13,30,000/-, whereas the Central Bank of India has issued notice (Annexure P/11) by which it has exceeded its jurisdiction under the Recovery of Debts and Bankruptcy Act, 1993, under Section 1(4) which explicitly mandates minimum pecuniary threshold of Rs.20,00,000/-. Therefore, the Tribunal has no jurisdiction / authority to entertain the dispute raised by the petitioner as it is below its pecuniary limit.

3. He would further submit that the Central Bank of India has preferred an application bearing O.A. No.684/2025 (Annexure P/9) against one R.S. Enterprises (borrower), through its Proprietor, Subhash Chand Jain and his wife, Basanti Bai Jain (guarantor), wherein it has mentioned in para No.3 that the claim in respect of amount due from the defendants exceeds Rs.20,00,000/-. However, it is submitted by the petitioner that by the notice (Annexure P/11) issued on 12.09.2017 it is quite clear that the petitioner is a guarantor to the extend of Rs.13,30,000/- and further after that, nothing has been placed on record to demonstrate whether the guarantor period has been extended or not.

4. I have heard learned counsel for the petitioner and perused the documents placed on record.

5. The point to be determined by this Court is:-

> “Whether the instant writ petition is maintainable against the impugned notice or not?

6. To ascertain the Point of determination, this Court has to examine the

general scope and limits of the High Court‟s powers and discretion under Articles 226 and 227 of the Constitution o India in relation to proceedings arising out of the DRT and DRAT.

7. Hon‟ble Supreme Court in case of **M.S. Sanjay Vs. Indian Bank [2025 SCC OnLine SC 368]** has summarized the governing principles for the exercise of such jurisdiction and has held as under:-

> “"9. It is well settled that interference by the Writ Court for mere infraction of any statutory provision or norms, if such infraction has not resulted in injustice is not a matter of course. In the case of Shiv Shanker Dal Mills v. State of Haryana, (1980) 2 SCC 437, the dealers in that case had paid market fees at the increased rate of 3%, which was raised from the original 2 per cent under Haryana Act 22 of 1977. The excess of 1 per cent over the original rate was declared ultra vires by this Court in the case of Kewal Krishna Puri v. State of Punjab, (1980) 1 SCC 416. The excess of 1 per cent over the original rate having been declared ultra vires, became refundable to the respective dealers from whom they were 2025 SCC OnLine SC 368 recovered by the Market Committee concerned. The demand for refund of the excess amounts illegally recovered from them not having been complied with, the dealers filed Writ Petitions under Article 32 and Article 226 of the Constitution for a direction to that effect to the Market Committee concerned. The Market Committees contended that although the refund of the excess collections might be legally due to the dealers, many of them had in turn recovered this excess percentage from the next purchasers. While disposing of the petition and laying down guidelines, this Court held as under:
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> "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."
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> 10. It has been rightly observed that legal formulations cannot be enforced divorced from the realities of the fact

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

8. Again a three-Judge Bench of the Hon‟ble Supreme Court in case of **PHR Invent Educational Society v. UCO Bank (2024 SCC OnLine SC 528]** has emphatically reiterated that the High Courts should ordinarily refrain from entertaining petitions arising from the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Recovery of Debts and Bankruptcy Act, 1993, since both statutes constitute self-contained codes providing efficacious alternative remedies. The Apex Court clarified that the writ jurisdiction may be invoked only in exceptional contingencies such as lack of jurisdiction, violation of fundamental judicial procedure, reliance on repealed provisions, or breach of natural justice. Hon’ble the Supreme Court has held as under:-

> “"23. It could thus be seen that, this Court has clearly held that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person. It has been held that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. The Court clearly observed that,

while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. It has been held that, though the powers of the High Court under Article 226 of the Constitution are of widest amplitude, still the courts cannot be oblivious of the rules of self-imposed restraint evolved by this Court. The Court further held that though the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, still it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution.

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

25. In State Bank of Travancore v. Mathew K.C., this Court was considering an appeal against an interim order passed by the High Court in a writ petition under Article 226 of the Constitution staying further proceedings at the stage of SARFAESI RDB Act Section 13(4) of the SARFAESI Act. After considering various judgments rendered by this Court, the Court observed thus : (SCC p. 94, para 16) "16. The writ petition ought not to have been entertained and the interim order granted for the mere asking without assigning special reasons, and that too without even granting opportunity to the appellant to contest the maintainability of the writ petition and failure to notice the subsequent developments in the interregnum. The opinion of the Division Bench that the counter-affidavit having subsequently been filed, stay/modification could be sought of the interim order cannot be considered sufficient justification to have declined interference."

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

27. Again, in Varimadugu Obi Reddy v. B. Sreenivasulu, after referring to earlier judgments, this Court observed thus : (SCC pp. 181-82, para 34) "34. The order of the Tribunal dated 1-8-2019 was an appealable order under Section 18 of the SARFAESI Act, 2002 and in the ordinary course of business, the borrowers/person aggrieved was supposed to avail the statutory remedy of appeal which the law provides under Section 18 of the SARFAESI Act, 2002. In the absence

of efficacious alternative remedy being availed, there was no reasonable justification tendered by the respondent borrowers in approaching the High Court and filing writ application assailing order of the Tribunal dated 1-8-2019 under its jurisdiction under Article 226 of the Constitution without exhausting the statutory right of appeal available at its command."

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

29. Recently, in Celir LLP, after surveying various judgments of this Court, the Court observed thus : (SCC p. 81, para 101) "101. More than a decade back, this Court had expressed serious concern despite its repeated pronouncements in regard to the High Courts ignoring the availability of statutory remedies under the RDBFI Act and the SARFAESI Act and exercise of jurisdiction under Article 226 of the Constitution. Even after the decision of this Court in Satyawati Tondon, it appears that the High Courts have continued to exercise its writ jurisdiction under Article 226 ignoring the statutory remedies under the RDBFI Act and the SARFAESI Act."

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

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

(i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;

(ii) it has acted in defiance of the fundamental principles of judicial procedure;

(iii) it has resorted to invoke the provisions which are repealed; and

(iv) when an order has been passed in total violation of the principles of natural justice.

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

grievance.

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41. While dismissing the writ petition, we will have to remind the High Courts of the following words of this Court in Satyawati Tondon since we have come across various matters wherein the High Courts have been entertaining petitions arising out of the DRT Act and the SARFAESI Act in spite of availability of an effective alternative remedy : (SCC p. 128, para 55) "55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection."

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

(i) The appeal is allowed;

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

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

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

"97. This Court has time and again, reminded the High Courts that they should not entertain petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person under the provisions of the SARFAESI Act. This Court in

United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110 made the following observations: (SCC pp. 123 & 128, paras 43-45 & 55) "43. Unfortunately, the High Court [Satyawati Tondon v. State of U.P., 2009 SCC OnLine All 2608] overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal 2023 SCC OnLine SC 1209. of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

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

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

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55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for

passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection."

100. In Varimadugu Obi Reddy v. B. Sreenivasulu, (2023) 2 SCC 168, it was held as under: (SCC p. 183, para 36) "36. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of pre-deposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated under the second proviso to Section 18 of the 2002 Act."

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

10. From perusal of record, it is quite vivid that respondent No.1 / Central Bank of India has already preferred an original application bearing O.A. No.684/2025 before the Tribunal, wherein the respondent Nos. 3 and 4 (borrower) and petitioner (guarantor) are parties and the proceedings have already started and it is well-settled provision of law that once the proceedings under the Debt Recovery Tribunal has commenced, the writ petition under Article of 226 of the Constitution of India cannot be entertained by the High Court in view of the alternative

and efficacious remedy available to the petitioner as held by Hon'ble the Supreme Court as aforestated.

11. Considering the facts and circumstances of the case, the law laid down by Hon'ble the Supreme Court as aforestated and also the fact that the petitioner has alternate and efficacious remedy, I am of the view that the instant petition is not maintainable at this stage.

12. Accordingly, the present writ petition is **dismissed** as not maintainable.

**Sd/-**
**(Narendra Kumar Vyas)**
**Judge**

Akhil