



1

WP-41074-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA,
ACTING CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL
ON THE 30th OF JUNE, 2026

WRIT PETITION No. 41074 of 2025

M/S LAKE CITY COMMUNICATION AND OTHERS

Versus

MAHANAGAR NAGRIK SAHKARI BANK MARYADIT

.....
Appearance:

Shri Ankit Saxena - Advocate for petitioner.

Shri Arun Kumar Misra – Advocate for respondent No.1.

.....
WITH

WRIT PETITION No. 13434 of 2026

MAHANAGER NAGRIK SAHKARI BANK MARYADIT

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Shri Shivendra Pandey - Advocate for petitioner.

Shri Rajvardhan Dutt Padraha – Advocate for respondent No.1.

.....
WRIT PETITION No. 19422 of 2026

MADAN MOHAN SRIVASTAVA

Versus

MAHANAGAR NAGRIK SAHAKARI BANK MAYDT. AND OTHERS

.....
Appearance:

Shri Manoj Kumar Sharma - Senior Advocate with Shri Quazi Fakhruddin-
Advocate for petitioner.

Shri Rajvardhan Dutt Padraha – Government Advocate for respondent/State.

.....
ORDER



Per. Pradeep Mittal J.

As the above three writ petitions arise out of the same loan transaction and involve common questions of fact and law, they were heard analogously and are being disposed of by this common order. Writ Petition No. 41074 of 2025 has been filed by the borrower, who had earlier preferred S.A. No. 329/2020 before the Debts Recovery Tribunal, Jabalpur, and during the pendency of the said petition, the Bank took possession of half share of the disputed property. Writ Petition No. 19422 of 2026 has been filed by the legal heirs of the mortgagor, who were not parties to the proceedings before the Debts Recovery Tribunal and who are in possession of the remaining half share of the disputed property, and who have challenged the mortgage deed in question. Writ Petition No. 13434 of 2026 has been filed by the petitioner-Bank, the secured creditor, seeking possession of the mortgaged property.

Facts of the Case

2. The borrower, who is the mother of the petitioner in Writ Petition No. 19422 of 2026, had availed financial assistance/credit facilities from the petitioner-Bank. In consideration thereof, she created an equitable mortgage by depositing title deeds in respect of the immovable property bearing House No. B-14, Shivaji Nagar, Near Congress Bhawan, Behind Sindhu Bhawan, Tehsil Huzur, District Bhopal, which constitutes the secured asset in the present matters. The loan account was classified as a Non-Performing Asset on 15.08.2005.

3. The Bank thereafter instituted recovery proceedings under Section 84(K) of the M.P. Cooperative Societies Act, 1960 before the Joint Registrar on 25.07.2005. A demand notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 04.05.2006; however, no further action was taken thereon, as the provisions of the SARFAESI Act were, at the relevant time, not applicable to



Cooperative Banks in the State. A fresh demand notice under Section 13(2) of the SARFAESI Act was subsequently issued on 05.02.2014. In the meanwhile, the recovery proceedings under Section 84(K) came to be disposed of with a direction to the Bank to extend to the borrower the benefit of the One Time Settlement Scheme. Aggrieved thereby, the Bank preferred a first appeal before the M.P. Cooperative Tribunal on 29.11.2017, which is stated to be still pending.

4. A further demand notice under Section 13(2) of the SARFAESI Act was issued on 18.07.2020, followed by a possession notice under Section 13(4) of the Act on 14.10.2020, which was published in the newspaper on 18.10.2020. The borrower thereupon filed S.A. No. 329/2020 before the Debts Recovery Tribunal, Jabalpur. The Bank had also obtained an order under Section 14 of the SARFAESI Act from the District Magistrate, Bhopal on 25.01.2021, which order was assailed by way of amendment in the securitisation application. By order dated 30.09.2021, the Debts Recovery Tribunal quashed the proceedings before the District Magistrate and held that the proceedings under the SARFAESI Act were barred by limitation. Aggrieved thereby, the Bank preferred Appeal No. 404/2021 before the Debts Recovery Appellate Tribunal, which set aside the order of the Debts Recovery Tribunal and remanded the matter for fresh adjudication.

Writ Petition No. 13434 of 2026 (Filed by the Bank)

5. Learned counsel for the petitioner-Bank submitted that possession of half share of the disputed property has already been obtained by the Bank, while the remaining half share is presently the subject matter of litigation between the Bank and the legal heirs of the borrower before the Debts Recovery Tribunal. In the circumstances, the Bank seeks permission to withdraw the present writ petition, with liberty to file a fresh petition after adjudication of the dispute by the Debts Recovery Tribunal/Debts Recovery Appellate Tribunal.



6. The prayer is accepted.

7. Accordingly, Writ Petition No. 13434 of 2026 is dismissed as withdrawn, with liberty as prayed for.

Writ Petition No. 19422 of 2026 (Filed by the Legal Heirs)

8. Learned counsel for the petitioners submitted that the petitioners shall approach the Debts Recovery Tribunal by filing an appropriate application under the SARFAESI Act to establish their title and to challenge the mortgage deed in question. It is further submitted that till such proceedings are initiated, the possession of the petitioners deserves to be protected, and that the amount deposited pursuant to the interim order of this Court be kept in a separate interest-bearing account, its disbursement being made only in accordance with the orders of the Debts Recovery Tribunal. Learned counsel for the Bank has no objection to the aforesaid prayer.

The petitioners further contend that their mother had never mortgaged the property in question, and that they intend to raise all such objections before the Debts Recovery Tribunal. It is also prayed that copies of all documents relating to the mortgage, presently in the possession of the Bank, be supplied to them.

9. Considering the nature of the dispute, and having regard to the fact that the Debts Recovery Tribunal is now functional, the writ petition is disposed of with the following directions, the petitioner-Bank shall furnish to the petitioners copies of all relevant documents relating to the mortgage within a reasonable time; the amount deposited pursuant to the interim order of this Court shall be kept in a separate interest-bearing account and shall be disbursed only in accordance with the orders of the Debts Recovery Tribunal; and the possession of the petitioners shall not be disturbed for a period of one month from today, so as to enable them



to approach the Debts Recovery Tribunal.

Writ Petition No. 41074 of 2025 (Filed by the Borrower)

10. The principal contention of the petitioner is that the proceedings initiated under the SARFAESI Act are barred by limitation. It is submitted that under Section 36 of the SARFAESI Act, no secured creditor can take any of the measures specified under sub-section (4) of Section 13 unless the claim in respect thereof is made within the period of limitation prescribed under the Limitation Act, 1963. In the case of mortgage debts, Article 62 of the Limitation Act prescribes a period of limitation of twelve years, and according to the petitioner, once twelve years have elapsed from the date on which the money became due, any proceedings initiated under Sections 13(2) and 13(4) of the SARFAESI Act become unenforceable. It is pointed out that the borrower had created an equitable mortgage in favour of the respondent-Bank on 22.07.2002, whereas the loan account was declared a Non-Performing Asset only on 15.08.2005.

11. This Court is unable to accept the aforesaid contention of the petitioner.

12. Though the mortgage was created on 22.07.2002, the loan account continued to remain operative until it was classified as a Non-Performing Asset on 15.08.2005, and during the said period, the borrower continued to acknowledge the subsisting liability. The relevant date for computing limitation, therefore, is the date on which the account was classified as a Non-Performing Asset. Further, the Bank had instituted recovery proceedings under Section 84(K) of the M.P. Cooperative Societies Act, 1960 for recovery of its dues, in which the borrower actively participated, and the Deputy Registrar ultimately passed an order on 05.04.2014. The Bank was thus continuously pursuing recovery proceedings, and the debt remained subsisting throughout.

13. Apart from the above, the respondent-Bank issued a fresh demand



notice under Section 13(2) of the SARFAESI Act on 05.02.2014, in response to which the borrower submitted objections on 31.03.2014, disputing the demand. Such objections amount to an acknowledgment of the loan transaction and, consequently, furnish a fresh period of limitation. It is well settled that once recovery proceedings are instituted for enforcement of a secured debt, the creditor continues to pursue its remedy in accordance with law, and the claim cannot be said to have become extinguished merely by lapse of time.

14. The Debts Recovery Tribunal has duly considered all the objections raised by the petitioner in this regard, and this Court finds no reason to take a different view. The proceedings initiated under the SARFAESI Act cannot, therefore, be held to be barred by limitation.

15. The record further reveals that Madan Mohan Shrivastava had submitted an application before the Chief Executive Officer of the Mahanagar Sahakari Bank, acknowledging the outstanding loan liability and seeking the benefit of the One Time Settlement Scheme. Along with the said application, he enclosed Cheque No. 000154 dated 25.04.2018 for Rs. 10,00,000/-, pursuant to discussions held on 11.04.2018. This acknowledgment of liability, coupled with the request for settlement, clearly demonstrates that the debt remained alive, and the recovery proceedings before the Cooperative authorities also remained pending throughout.

16. Accordingly, the contention that the proceedings under the SARFAESI Act are barred by limitation is devoid of merit. This Court finds no illegality in the order passed by the Debts Recovery Appellate Tribunal warranting interference under Article 226 of the Constitution of India.

17. Accordingly, Writ Petition No. 41074 of 2025 stands dismissed.

18. With the aforesaid directions/observations, all the three writ petitions,



namely, Writ Petition No. 41074 of 2025, Writ Petition No. 19422 of 2026 and Writ Petition No. 13434 of 2026, stand disposed of. No order as to costs.

19. Photocopy of this order be placed in connected cases.

(VIVEK RUSIA)
ACTING CHIEF JUSTICE

(PRADEEP MITTAL)
JUDGE

Praveen