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CR-13-2026

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 19<sup>th</sup> OF JUNE, 2026CIVIL REVISION No. 13 of 2026*CANARA BANK AND OTHERS**Versus**AMIT KUMAR SINGH AND OTHERS*

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Appearance:

*Shri Shreyas Dubey - Advocate for the petitioner.*

*Shri Ashish Giri- Advocate for the respondent No.1.*

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ORDER

Heard on IA No.2570 of 2026 which is application for condonation of delay of 47 days in filing the revision. Reason is assigned that applicant is a bank and some time was spent for obtaining permission and sanction to file the revision and to seek legal opinion etc.

2. Upon consideration of the contents of the application, the same is allowed and the delay of 47 days in filing the revision stands condoned.

3. Heard on merits.

4. This revision under Section 115 of Code of Civil Procedure has been filed challenging the order dated 20.08.2025 passed by the trial Court whereby application under Order 7 Rule 11 CPC filed by the petitioner-bank has been rejected. It was contended in the application that the suit is barred in view of Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short



'SARFAESI Act').

5. The necessary facts for the purpose of disposal of this revision are that the respondent No.2/ defendant No.1 is the admitted owner of the property having received it on long-term lease from MP Housing Board as an allottee. He created equitable mortgage in favor of the bank while taking loan facility from the bank in the year 2013.

6. When he became defaulter then the bank filed OA No.1418 of 2018 in terms of Recovery of Debts and Bankruptcy Act, 1993 (for short, "RDB Act") which was decreed by the Debts Recovery Tribunal, Jabalpur vide judgment dated 10.02.2020. As per the said decree the defendants therein including defendant No.1 of the present suit were held jointly and severally liable to pay which Rs.19.58 lakh in housing loan account and further Rs.26.73 lakh in OCC account along with *pendente lite* and future interest at the rate of 12% per annum from the date of filing of OA till realization. Proceedings for enforcement of the said order are pending before the DRT and in the meantime the bank has also exercised its rights under SARFAESI Act.

7. The equitable mortgage was created in favour of the bank in the year 2013 and the bank filed OA against the defendant No.1 in the year 2018 which was decreed on 10.02.2020.

8. Much after the decree was passed, the defendant No.1, who is the debtor of the bank, has sold the property to the plaintiff/present respondent No.1 vide registered sale deed dated 30.06.2021. Thereafter the present plaintiff-respondent No.1 filed a suit for declaration of title, permanent



injunction and for setting aside the proceedings of proposed auction of the property by the bank on the ground that the property was sold to the plaintiff/respondent No.1 by the defendant No.1 with no-objection of the MP Housing Board and he has perfected his title in the property. It has been disclosed in this plaint that there is a mortgage of the property in favour of the bank created by the defendant No.1 but it has been stated in the said plaint that the said mortgage is not by a registered document and therefore, the said mortgage is illegal. It is further stated in the plaint that grant of loan to the defendant No.1 is a malicious and criminal act by the bank because the bank in the year 2013 has hurriedly granted loan to the defendant No.1 which does not bind the plaintiff.

9. Learned counsel for the petitioner bank, who are defendant No.2 and 3 in the present suit has vehemently argued that the suit is barred by law as it is not a question of title being raised by the present plaintiff of some transaction which had taken place prior to creation of mortgage. It is not the case of the plaintiff that he had the title to the property prior to creation of the mortgage and mortgage was erroneously created in favor of the bank or that the bank did not properly search for title while granting loan. On the other hand, the present plaintiff is a person who has purchased the property from the mortgager 8 years after creation of the mortgage and that too when the bank already had a decree of recovery against the vendor of the present plaintiff, i.e. the present defendant No.1 prior to the sale taking place of the property in the year 2021. Therefore, the plaintiff is simply a subsequent purchaser and that too, purchaser from a mortgager who had no right left to



sell the property on the date of sale after having created mortgage. The suit is collusive suit between the plaintiff and the defendant No.1 just to avoid the order of the DRT in favour of the bank which is much prior to the sale taking place in favour of the plaintiff. It is further argued that the sale is collusive in nature and much below the actual value of the property. The learned counsel for the petitioner further argues that the suit is vexatious and malicious piece of litigation just to avoid decree of the DRT and the judgment debtor before the DRT has created right in favor of a person after passing of the decree and therefore this type of vexatious suit cannot be allowed to be tried, which is barred in terms of Section 17 Recovery of Debts and Bankruptcy Act, 1993 (for short 'RDB Act') and Section 34 of the SARFAESI Act is barred by law and further it does not disclose any valid cause of action.

10. *Per contra*, it is vehemently argued by learning counsel for the respondent plaintiff that the suit is very much maintainable. Reliance is placed on judgment of the Honorable Supreme Court in the case of **Central Bank of India Vs. Prabha Jain (2025) 4 SCC 38** to contend that the DRT is not competent enough to decide the questions of title which are complicated issues and the present suit raises issues of title which can only be decided by a civil Court. He further argues that the mortgage was created in favour of the bank by the defendant No.1 in favour of present respondent No.2 & 3 without consent of MP Housing Board, though he was allottee from MP Housing Board. Therefore, the sale deed executed in favor of the present plaintiff is enforceable because it is with consent of MP Housing Board. On these grounds, it is contended that various serious issues of title are involved



in the matter which are complicated issues and cannot be decided by the DRT and hence the present revision petition be dismissed.

11. Heard.

12. In the present case, it is not disputed that the present plaintiff is the person who has purchased the property from the debtor after decree was passed by the DRT in favor of the bank in a suit/OA filed by the bank in the year 2018 which stood decreed on 10.02.2020 while the sale transaction in favor of the present plaintiff has taken place in June 2021.

13. The judgment and decree of the DRT may be ex-parte one, but that does not dilute its force and it is therefore not a case where the plaintiff is raising such a dispute of title which relates back to the date of creation of mortgage in favor of the bank which is in the year 2013. He is not competitor of title with the bank because as on the date of creation of mortgage with the bank, he was not in picture at all. He entered into picture on 30.06.2021 when there was already a decree of recovery in favor of the bank which has not been put to challenge by the defendant No.1/present respondent No.2 till date before any Forum or before the DRAT.

14. In the plaint various reliefs are sought. The first relief is declaration of title, second relief is that on the basis of mortgage created in favor of the bank, the bank has no right to auction the property, third relief is for permanent injunction against the bank and other defendants so also against the bank from conducting auction proceedings.

15. Therefore, from a perusal of the relief clause it is clear that the relief prayed is mainly against the bank and against the mortgage created in



favour of the bank by the defendant No.1 which is much prior to the plaintiff getting sale deed executed in his favor by the debtor who was already a judgment-debtor on the date of execution of sale deed because there is a decree of DRT which is more than one year prior to the date of sale in favor of the present plaintiff.

16. It is settled in law that plaint cannot be rejected in the piecemeal. The substance of the suit is pointed towards the Bank only, and no prayer is made against the vendor, who executed sale deed many years after creating mortgage in favour of the Bank. He seeks declaration of title as against mortgage created in favour of the Bank, and further seeks injunction against the Bank.

17. The aforesaid assertions of the plaintiff in the plaint duly make it a case where the plaintiff is aggrieved by the measures taken by the bank under Section 13 (4) of SARFAESI Act because the cause of action of the filing of the suit is measures taken by the bank under Section 13(4), so also the measures taken in execution of decree passed by the DRT. As per Section 17 of SARFAESI Act any person can approach the DRT being aggrieved by the measures taken under Section 13 (4) of SARFAESI Act. Section 34 bars Civil Suit before a Civil Court. Relevant Sections 17 & 34 is as under:-

*"17.[Application against measures to recover secured debts].—(1) Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorised officer under this Chapter,1 [may make an application along with such fee, as may be prescribed,] to the Debts Recovery Tribunal having*



*jurisdiction in the matter within forty five days from the date on which such measure had been taken:  
[Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.] "*

*"34. Civil court not to have jurisdiction.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993)."*

18. As per section 34 the suit would be barred where the DRT is having jurisdiction under the SARFAESI Act to entertain an application to determine any question.

19. Learned counsel for the respondent-plaintiff argued that orders of learned court below are bad in the eye of law because in the case of *Prabha Jain Vs Central Bank of India and others 2013(1) M.P.L.J. 385*, a Division Bench of this court held that question of validity of a sale-deed mortgage with the bank, DRT is not empowered to decide such question. It is seen that the said judgment has been confirmed by the Hon'ble Supreme Court recently in *Central bank of India Vs. Prabha Jain, 2025 (4) SCC 38*. The Hon'ble Apex Court has considered in detail that when the suit would not be barred. It held as under :-

*42. The Debts Recovery Tribunal is a creature of the RDB Act of 1993 and is empowered to exercise powers under that Act and the Sarfaesi Act of 2002. The Tribunal is bound by the powers conferred to it by*



*Parliament. Interestingly, when this Court in Harshad Govardhan Sondagar v. International Assets Reconstruction Co. Ltd. [Harshad Govardhan Sondagar v. International Assets Reconstruction Co. Ltd., (2014) 6 SCC 1 : (2014) 3 SCC (Civ) 1 : (2014) 184 Comp Cas 199] held that the tenant cannot approach the DRT because the re-possession can be only in favour of the borrower, Parliament stepped in and amended the Sarfaesi Act. Sub-sections (3) and (4) of Section 17, respectively, are instructive to the level of examination that the DRT can undertake, and the same is limited to the validity of the measures under sub-section (4) of Section 13. Hence, the DRT is not permitted to examine the validity of the earlier sale deed, whereafter the mortgage was executed in favour of the Bank.*

20. In the present case, the plaintiff does not allege any defect in title of the mortgator, but merely asserts herself to be a subsequent purchaser, having purchased many years after the vendor created mortgage in favour of the Bank. Therefore, in the opinion of this Court, he raises no question that the DRT cannot decide.

21. The Apex Court in the case of *Jagdish Singh vs. Heeralal and others 2014 (1) SCC 479*, vide judgment dated 30.10.2013 on almost similar facts after an elaborate consideration of different provisions of SARFAESI Act has laid down that:-

*“the jurisdiction of Civil Court is completely barred, so far as the measures taken by a Secure Creditor under subsection (4) of Section 13 of the Act against which an aggrieved person has a right of appeal before the DRT or the Appellate Tribunal to determine as to whether there has been any illegality in the measure taken. The Bank, in the instant case, has proceeded only against secured assets of the borrowers on which no rights of respondent No.6 to 8 have been crystallized, before security interest in respect of the secured assets. In such circumstances, we are of the view that the High Court*



*was in error in holding that only civil Court has jurisdiction to examine as to whether the measure taken by the Secured Creditor under sub-section (4) of Section 13 of the Securitization Act were legal or not. In such circumstances, the appeal is allowed and the judgment of the High Court is set aside. There shall be no order as to costs.”*

22. The above principle has been followed by the Apex court in the case of *M/S. Sree Anandhakumar Mills Ltd. vs M/S. Indian Overseas Bank And Ors., 2019 (14) SCC 788*. In view of the above, learned Court below ought to have dismissed the civil suit under the provisions of Order 7 Rule 11 (D) of the C.P.C.

23. In *SBI v. Allwyn Alloys (P) Ltd.*, reported in (2018) 8 SCC 120, the Hon'ble Supreme Court has held as under:-

*"8. After having considered the rival submissions of the parties, we have no hesitation in acceding to the argument urged on behalf of the Bank that the mandate of Section 13 and, in particular, Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the 2002 Act"), clearly bars filing of a civil suit. For, no civil court can exercise jurisdiction to entertain any suit or proceeding in respect of any matter which a DRT or DRAT is empowered by or under this Act to determine and no injunction can be granted by any court or authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the Act."*

24. In view of the aforesaid judgment of Hon'ble Supreme Court and bare language of Section 17 and 34 of SARFAESI Act the suit clearly appears to be barred by law.

25. It can be argued that civil rights of persons other than the borrower can be determined by the civil court only when it prima facie



appears from the record that relief claim is incapable of being decided by the DRT. However, in the present case nothing of that sought has been placed on the record to indicate that the DRT is not equipped to decide the questions arising between the parties. The plaintiff is transferee after creation of mortgage.

26. There is already a order/decreed of DRT against the borrower, prior to sale taking place in favour of the plaintiff. As per Section 18 of RDB Act also, the suit is barred. The aforesaid section 18 is as under :-

***Section 18: Bar of jurisdiction.***

*18. On and from the appointed day, no court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17:*

*[Provided that any proceedings in relation to the recovery of debts due to any multi-State co-operative bank pending before the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 (1 of 2013) under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) shall be continued and nothing contained in this section shall, after such commencement, apply to such proceedings.]*

27. Therefore this court finds that the suit is not maintainable because this suit has been filed only to avoid the measures taken by the bank under Section 13(4) of SARFAESI Act, and to avoid execution of decree/order of the DRT, and for no other real purpose. This suit is clearly barred by Section 34 of SARFAESI Act and Section 18 of RDB Act. The remedy would lie to be plaintiff, who is a subsequent purchaser after creation of Security Interest and even passing decree by the DRT, before the DRT



under Section 17 of SARFAESI Act or under other provisions of RDB Act.

28. In view of the aforesaid, the impugned order is set aside. The plaint filed by the plaintiff is rejected holding the suit to be barred by law in terms of Section 34 of SARFAESI Act and Section 18 of RDB Act. Plaintiff is set at liberty to approach the DRT in appropriate proceedings.

29. The revision petition stands *allowed*.

(VIVEK JAIN)  
JUDGE

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