



2026:KER:51166

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN

TUESDAY, THE 14TH DAY OF JULY 2026 / 23RD ASHADHA, 1948

WP(C) NO. 23603 OF 2026

PETITIONERS:

- 1 M/S. FATHIMA CASHEW INDUSTRIES
REPRESENTED BY MANAGING PARTNER NOUSHAD M.
PERUMANATHODI, HAVING ADDRESS AT VALATHUNGAL P.O.,
KOLLAM, PIN - 691011
- 2 NOUSHAD M
AGED 55 YEARS
S/O. MOHAMMED SALI, NAHAS MANZIL,
HAVING ADDRESS AT PERUMANATHODI,
VALATHUNGAL P.O, KOLLAM, PIN - 691011

BY ADVS.
SMT. MARIA NEDUMPARA
SHRI.SHAMEEM FAYIZ V.P.
SHRI.ROY PALLIKOODAM

RESPONDENTS:

- 1 THE BOARD OF DIRECTOR OF STATE BANK OF INDIA
REPRESENTED BY ITS CHAIRMAN, CORPORATE CENTER,
16TH FLOOR, MADAM CAMA ROAD, NARIMAN POINT,
MUMBAI, PIN - 400021
- 2 STATE BANK OF INDIA
REPRESENTED BY ITS CEO & MANAGING DIRECTOR,
CORPORATE CENTER, 16TH FLOOR, MADAM CAMA ROAD,
NARIMAN POINT, MUMBAI, PIN - 400021
- 3 THE MANAGER
STATE BANK OF INDIA, COMMERCIAL BRANCH,



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1ST FLOOR, STATE BANK BUILDING,
RAILWAY STATION ROAD, KOLLAM H.P.O,
KOLLAM, PIN - 691001

4 THE AUTHORISED OFFICER
STATE BANK OF INDIA, STRESSED ASSETS RECOVERY
BRANCH, OPP. MUSEUM WEST GATE, VIKAS BHAVAN P.O,
THIRUVANANTHAPURAM, PIN - 695033

5 THE AUTHORISED OFFICER
STATE BANK OF INDIA, COMMERCIAL BRANCH,
1ST FLOOR, STATE BANK BUILDING,
RAILWAY STATION ROAD, KOLLAM H.P.O,
KOLLAM, PIN - 691001

6 RESERVE BANK OF INDIA
REPRESENTED BY ITS GOVERNOR, 18TH FLOOR,
CENTRAL OFFICE BUILDING,
SHAHID BHAGAT SINGH ROAD, MUMBAI, PIN - 400001

7 THE CHIEF GENERAL MANAGER
DEPARTMENT OF BANKING OPERATIONS AND
DEVELOPMENT, RESERVE BANK OF INDIA
SHAHID BHAGAT SINGH ROAD, MUMBAI, PIN - 400001

8 UNION OF INDIA
REPRESENTED BY SECRETARY, DEPARTMENT OF
FINANCIAL SERVICES, MINISTRY OF FINANCE,
JEEVAN DEEP BUILDING, PARLIAMENT STREET,
NEW DELHI, PIN - 110001

9 SECRETARY
MINISTRY OF MICRO, SMALL & MEDIUM ENTERPRISES,
UDYOG BHAWAN, RAJI MARG, NEW DELHI, PIN - 110001

10 ADV. ANAGHA A.
ADVOCATE COMMISSIONER APPOINTED IN MC NO.702 OF
2024 IN THE FILES OF CJM KOLLAM, VILAKKUMTHARA,
KARIKODE, TKMCPO, KOLLAM, PIN - 691005

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 10.07.2026, THE COURT ON 14.07.2026
DELIVERED THE FOLLOWING:



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P. V. BALAKRISHNAN, J.

.....
W.P.(C) No.23603 of 2026
.....

Dated this the 14th day of July, 2026

J U D G M E N T

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This writ petition is filed by the petitioners aggrieved by the act of the respondent—State Bank of India, taking coercive steps under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act', for short) without resorting to the mandatory provisions of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as the 'MSMED Act', for short), read with the MSME Notification, dated 29.05.2015.



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2. The 1st petitioner is an MSME engaged in import, processing and export of cashew products having Udyam registration. The loan sanctioned to the 1st petitioner is an MSME loan. On 30.09.2023, the respondent-Bank issued Ext.P4 notice, under Section 13(2) of the SARFAESI Act. The petitioners submitted Ext.P5 detailed objections to Ext.P4, on 28.11.2023 specifically pointing out that the statutory obligations cast upon the 1st respondent under the MSMED Act and the illegality in classifying the petitioners' loan account as NPA, in violation of the notification dated 29.05.2015 and the guidelines of the RBI. To Ext.P5, the 3rd respondent issued Ext.P6 reply and it was totally silent regarding extending any benefits under the MSMED Act and the notification. Thereafter, when the 3rd respondent issued Ext.P7 possession notice, the petitioners filed SA No.125/2024 before the DRT-II, Ernakulam challenging the same. While so, the 3rd respondent filed Ext.P8 counter affidavit in IA No.4010/2024, in the SA by producing the minutes of the meeting of the Committee for Revival and Rehabilitation of



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Micro, Small and Medium Enterprises. It is the case of the petitioners that no such Committee has been constituted by the respondent-Bank and that Ext.P8 is a fabricated document created by it. It is also their case that the alleged meeting of the Committee has taken place without notice to the petitioners and the decision taken in the said meeting is grossly illegal and violative of the mandatory procedure prescribed in the notification. It is further averred that the Committee has not considered relevant aspects and the decision reflects non application of mind. In the meantime, the respondent-Bank initiated proceedings under Section 14 of the SARFAESI Act and the Advocate Commissioner issued Ext.P9 notice to the petitioners. It is in such circumstance, the petitioners approached this Court by filing this writ petition.

3. Heard the learned counsel for the petitioners and the learned counsel for respondents 1 to 5.

4. The learned counsel for the petitioners submitted that the decision of the Committee for Revival and Rehabilitation of Micro, Small and Medium Enterprises,



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produced along with Ext.P8 is a product of forgery and fraud since, no Committee has been constituted as stated therein. He further submitted that the constitution of the Committee, as reflected in Ext.P8, is also not as mandated in the notification and even though, the petitioners have filed Ext.P14 review petition, the same has not yet been considered. He contended that any dispute regarding MSMED Act and its violation has to be considered by a civil court under Section 9 CPC and the petitioners have, thus approached the Bombay City Civil Court and has filed a suit seeking various remedies since the petitioners/MSME had to face violation of the notification. He also submitted that the said court has wrongly returned the plaint stating that it has no jurisdiction and since, in the meantime, there is a threat of dispossession, this writ petition has been filed. Hence, he prayed that an order restraining the respondent-State Bank of India from taking possession of the secured asset may be passed.

5. *Per contra*, the learned counsel for respondents 1 to 5 submitted that the petitioners have



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challenged the proceedings initiated under the SARFAESI Act, by filing SA No.125/2024 before the DRT. In that SA, the petitioners have initially filed IA No.4010/2024, seeking stay of the notice issued by the Advocate Commissioner and the Tribunal has, after taking note of the offer made by the petitioners to deposit 10% of the outstanding in the loan account, deferred taking physical possession subject to deposit of ₹50 lakhs. She submitted that at that time, the Tribunal, after going through the minutes of the Committee, had also found that the petitioners have no *prima facie* case. She contended that thereafter, the petitioners have approached this Court by filing W.P.(C) No.922/2025, taking a contention that the benefit of the MSMED Act and notification has not been given to them and this Court, as per Ext.P11 judgment, has relegated the petitioners to the DRT. She also referred to the exhibits in Ext.P11 judgment and submitted that even at that time, the Bank has produced the notice issued by the Committee to the petitioners. She further submitted that thereafter, the petitioners had again filed IA No.1632/2026



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seeking stay of notice issued by the Advocate Commissioner and that the same was also dismissed by Ext.P13. She added that Ext.P14 review petition filed by the petitioners is nearly three years after the decision of the Committee and that the attempt of the petitioners in all these proceedings is to protract the matter.

6. On an anxious consideration of the rival submissions and materials on record, I find considerable force in the submissions made by the learned counsel for respondents 1 to 5. Going by the case of the petitioners itself, it can be seen that they have approached the City Civil Court in Bombay challenging the decision of the Committee for Revival and Rehabilitation of Micro, Small and Medium Enterprises dated 27.09.2023 and that the plaint has been returned stating that the court has no jurisdiction. It is the case of the petitioners that in the meantime, since there is a threat of dispossession, they have approached this Court by filing this writ petition. It is a settled law, as held by the Hon'ble Apex Court in the decisions in **Phoenix ARC Pvt.**



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Ltd. v. Vishwa Bharati Vidya Mandir and others [2022 KHC OnLine 6040], **South Indian Bank Ltd. (M/s.) v. Naveen Mathew Philip** [2023 KHC OnLine 6435] and **PHR Invent Educational Society v. UCO Bank** [2024 KHC OnLine 6208], that writ petitions against SARFAESI proceedings must not be entertained by the High Court since, the aggrieved persons have an alternative and efficacious remedy before the DRT. It is also the law, as held by the Apex Court in the decisions in **United Bank of India v. Satyawati Tondon and others** [(2010) 8 SCC 110] and **Authorised Officer, Indian Overseas Bank and another v. M/s. Ashok Saw Mill** [2009 KHC 4883] that even the measures under Section 14, which are post Section 13(4) actions will fall within the ambit of Section 17 of the SARFAESI Act and the High Courts must not exercise the extraordinary power under Article 226/227 in such cases since, the aggrieved persons can approach the DRT by filing an application under Section 17 of the SARFAESI Act.



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7. Be that as it may, the proceedings in the instant case would also show that the petitioners have approached the DRT in 2024 itself seeking stay of the notice issued by the Advocate Commissioner and that even though the Tribunal has passed a conditional order of stay, they have not complied with the conditions. It is further to be seen from Ext.P13 that the petitioners have again filed IA No.1632/2026 seeking stay of the notice issued by the Advocate Commissioner and that the same has been dismissed on 12.06.2026, on merits by finding that the petitioners have failed to establish any *prima facie* illegality or irregularity in the securitisation proceedings. It is to be taken note that the petitioners have not challenged the orders passed in IA No.4010/2024 and IA No.1632/2026 in SA No.125/2024 as per law.

8. Further, a perusal of Ext.P11 judgment passed by this Court would go to show that when the petitioners have approached this Court alleging non compliance of the MSMED Act and the notification dated



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29.05.2015, this Court has relegated the petitioners to the DRT. A perusal of Ext.P8 would go to show that even before issuing Ext.P4 notice, the Committee for Revival and Rehabilitation of Micro, Small and Medium Enterprises has considered the case of the petitioners. It also shows that even though the borrower was issued with a notice to attend the Committee, by submitting a detailed project report, he has not turned up. At this juncture, I will also take note of the fact that the petitioners were fully aware about the decision of the Committee for Revival and Rehabilitation of MSMEs as early as in 2024 when orders in IA No.4010/2024 was passed by the DRT and that even then they have kept quiet till 2026. It is also pertinent to note that the petitioners have not raised any challenge to Ext.P8 in this writ petition. As held by the Division Bench of this Court in ***South Indian Bank v. M/s.PDMC Industries*** [2025 KHC Online 1307] and in Ext.P11 judgment, it is for the DRT to consider the question whether there is any violation of statutory provisions, while considering the challenge to SARFAESI proceedings pending



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before it.

In the light of the afore discussions, I am not inclined to exercise the extraordinary jurisdiction under Article 226 of the Constitution of India in this case. Ergo, this writ petition is dismissed.

Sd/-

P. V. BALAKRISHNAN, JUDGE

aks/10.07.2026



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APPENDIX OF WP(C) NO. 23603 OF 2026

PETITIONER'S EXHIBITS

Exhibit P1	A TRUE COPY OF NOTIFICATION NO. S.O.1432 (E) DATED 29.05.2015, ISSUED BY THE MSME MINISTRY, GOVERNMENT OF INDIA
Exhibit P2	A TRUE COPY OF THE RBI NOTIFICATION NO. RBI NOTIFICATION NO. FIDD.MSME & NFS.BC.NO. 21/06.02.31/2015-16, DATED 17.03.2016
Exhibit P3	A COPY OF THE UDYAM REGISTRATION CERTIFICATE (CERTIFICATE NO. UDYAM KL 06-0002354) DATED 10.12.2020 ISSUED BY THE MINISTRY OF MSME, GOVT. OF INDIA
Exhibit P4	A TRUE COPY OF THE DEMAND NOTICE DATED 30.09.2023
Exhibit P5	A TRUE COPY OF THE OBJECTION DATED 28.11.2023 SUBMITTED BY THE PETITIONERS THROUGH THEIR ADVOCATE TO THE 3RD RESPONDENT
Exhibit P6	A TRUE COPY OF THE REPLY DATED 12.12.2023 ISSUED BY THE 3RD RESPONDENT
Exhibit P7	A TRUE COPY OF THE POSSESSION NOTICE DATED 18.12.2023 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONERS,
Exhibit P8	A TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE RESPONDENT NO.3 IN I.A. NO.4010 OF 2024 IN S.A. NO.125 OF 2024, TOGETHER WITH THE MINUTES OF THE MEETING OF THE COMMITTEE FOR REVIVAL AND REHABILITATION OF MSMES DATED 27.09.2023,
Exhibit P9	A TRUE COPY OF THE ADVOCATE COURT COMMISSIONER'S NOTICE DATED 30.06.2026 ISSUED TO THE PETITIONERS
Exhibit P10	A COPY OF THE RBI NOTIFICATION RBI/2012-13/156 DATED 01.08.2012
Exhibit P11	TRUE COPY OF THE JUDGMENT IN W.P.(C) NO. 922 OF 2025 DATED 21/07/2025
Exhibit P12	TRUE COPY OF THE JUDGMENT IN W.P.(C)



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	NO. 15853 OF 2026 DATED 18/05/2026
Exhibit P13	A TRUE COPY OF THE INTERIM ORDER DATED 12.06.2026 PASSED IN IA 1632/ 2026 IN S.A. NO.125 OF 2024 BY THE DEBTS RECOVERY TRIBUNAL-II, ERNAKULAM
Exhibit P14	A COPY OF THE REVIEW APPLICATION DATED 26/06/2026 SUBMITTED BY THE PETITIONER