IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2026

CORAM

THE HON'BLE MR.SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

WP Nos.12454 and 4834 of 2026
and WMP Nos.5400, 13623, 5403, 12358, 13626 and 13627 of 2026

1. M/s.Challani Ranka Jewellery,
Rep. By its Partner, Mr.Sumti A Challani
No.119, NSC Bose Road, First Floor,
Sowcarpet, Chennai 600 079.

2. R.J.Anandmul
3. Sumti A Challani .. Petitioners in both WPs.

-vs-

The Authorised Officer,
Indian Overseas Bank,
Asset Recovery Management Branch,
3rd Floor, Annexe Building,
Central Office Building,
763, Anna Salai, Chennai 600 002. .. Respondent in both WPs.

Prayer: Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus (i) WP.12454/2026 – To call for the order of dismissal dated 06.03.2026 made in I.A.No.108 of 2026 in AIR 131 of 2026 passed by the DRAT, Chennai, passed under Proviso to Section 18 of the SARFAESI Act which was filed challenging the S.A.No.875 of 2025 filed before DRT III and quash the same and consequently direct the respondent not to proceed with the sale of the properties of the petitioners; and (ii) WP. 4834/2026 – To call for the records pertaining to the order dated 27.01.2026 made in I.A.No.108 of 2026 in Appeal IR No.131 of 2026 on the file of Hon'ble Debt Recovery Appellate Tribunal at Chennai and quash the same and consequently direct the Hon'ble Debt Recovery Appellate Tribunal at Chennai to number, hear and decide Appeal IR No.131 of 2026 on merits and in accordance with law.

For Petitioners in both WPs.	:	Mr.M.Suresh Kumar for Mr.N.Nikhilesh
For Respondents in both WPs.	:	Mr.M.L.Ganesh

* * * * *

COMMON ORDER

(Order of the Court was made by G.Arul Murugan, J.)

The borrowers/petitioners have filed W.P.No.4834 of 2026 challenging the order dated 27.01.2026 passed by the Debt Recovery Appellate Tribunal in I.A.No.108 of 2026 in AIR No.131 of 2026, whereby the borrower was directed to pay 25% of an amount of Rs.4,76,84,141/- as pre-deposit, for entertaining the appeal. W.P.No.12454 of 2026 has been filed by the petitioners/borrowers challenging the order dated 06.03.2026 passed by the Debt Recovery Appellate Tribunal dismissing the appeal in AIR No.131 of 2026 in view of the non-compliance of the order passed on 27.01.2026.

2. Learned counsel appearing for the petitioners submitted that the sale notice was put to challenge before the Debts Recovery Tribunal, wherein a conditional order was passed and assailing the conditional order, they have filed appeal before the Debt Recovery Appellate Tribunal along with an application seeking waiver of pre-deposit. The Debt Recovery Appellate Tribunal, while passing an order, deducted a sum of Rs.84,16,000/- which was paid by the borrowers on 26.12.2025, from the amount mentioned in the sale notice. The learned counsel further submitted that after the order was passed by the Debt Recovery Appellate Tribunal, another sum of Rs.98,54,061/- was also paid on 20.03.2026 in S.A.No.138 of 2026 and this amount also could be adjusted while calculating 25% of pre-deposit. Learned counsel submitted fervently that the petitioners may be allowed to approach the bank by entering into one-time settlement.

3. Per contra, learned counsel appearing for the respondent/bank contended that as per the provisions of the SARFAESI Act, the borrowers are liable to pay 50% of the amount due and payable to the bank, however, the Debt Recovery Appellate Tribunal, in its own discretion, could reduce it upto 25%. Learned

counsel further submitted that when the outstanding amount, as mentioned in the sale notice, was Rs.5,61,00,141/-, the Debt Recovery Appellate Tribunal, by taking note of the amount of Rs.84,16,000/- paid by the borrowers in S.A.No.875 of 2025, on 26.12.2025, has only directed the borrowers to pay 25% of the balance amount towards pre-deposit for entertaining the appeal. Learned counsel submits that when already the Debt Recovery Appellate Tribunal had, in its discretion, provided the maximum concession to the petitioners/borrowers and further the petitioners/borrowers having not complied with the order, as a result of which, the main appeal in AIR No.131 of 2025 itself has been rejected, both the writ petitions are not maintainable and therefore, seeks for dismissal of the writ petitions.

4. Learned counsel appearing for the bank, however, would submit that in the event of entertaining the writ petitions and allowing the petitioners/borrowers to prosecute the appeal, the amount of Rs.98,54,061/-, which is now claimed to have been paid by the petitioners on 20.03.2026, the same would also be given credit to while calculating the 25% of pre-deposit.

5. Heard the rival submissions and perused the material available on record.

6. It is not in dispute that, the borrowers have defaulted in repayment of loan and it had resulted in initiation of proceedings under the SARFAESI Act. Already, several proceedings have been taken, pending the sale of properties and from the averments made by the petitioners themselves, it could be seen that at least around 10 Sarfaesi Appeals have been preferred before the Debts Recovery Tribunal.

6.1. In the instant case, a sale notice came to be issued by the bank for sale of one of the properties of the petitioners/borrowers in auction. The borrowers have assailed the sale notice before the Debts Recovery Tribunal-III, Chennai, in S.A.No.875 of 2025, wherein a conditional order was passed on 26.12.2025 directing them to deposit 15% of the amount due and payable to the bank. The petitioners had challenged the said conditional order of Debts Recovery Tribunal before the Debt Recovery Appellate Tribunal along with an application for waiver of pre-deposit.

6.2. The Debt Recovery Appellate Tribunal considered the waiver application filed by the petitioners/borrowers and by order dated 27.01.2026, directed the petitioners to deposit a sum of Rs.1,19,21,035/- in two equal instalments, being 25% of the amount of Rs.4,76,84,141/-, which was arrived at after deducting the amount paid by the petitioners to a tune of Rs.84,16,000/- from the amount mentioned in the sale notice, i.e., Rs.5,61,00,141/-. The relevant portion of the order is extracted hereunder:

> *" On a query, it is informed by Learned Counsel for the bank that possession is not take and sale is not over. As per the impugned Sale Notice, the amount due is Rs.5,61,00,141/-. After the Sale Notice, Petitioners/Appellants paid Rs.84,16,000/-. Deducting this amount from Rs.5,61,00,141/-, balance would come to Rs.4,76,84,141/-.*
>
> *Taking note of the fact that the physical possession of the property is not taken and sale is not over, with a view to given an opportunity to the Petitioners/Appellants to make pre deposit and to pay the loan amount to the Bank and save the property, this Tribunal is of the view that directing the Petitioners/Appellants to deposit 25% of Rs.4,73,84,000/- would meet the requirement under Section 18(1) of SARFAESI Act, 2002, for entertaining the Appeal.*
>
> *Admittedly, 25% of Rs.4,76,84,141/- comes to Rs.1,19,21,035.25p (rounded off to Rs.1,19,21,035/-).*
>
> *Therefore, Petitioners/Appellants shall deposit Rs.1,19,21,035/-, in two equal instalments, the first instalment of Rs.59,60.517.50p to be deposited on or before 10.02.2026 and second instalment of*

RS.59,60,517.50p, to be deposited on or before 24.02.2026."

6.3. It is to be noted that the petitioners have filed W.P.No.4834 of 2026 challenging the order passed by the Debt Recovery Appellate Tribunal in waiver application. It is further to be noted that the order passed by the Appellate Tribunal in the waiver application was not complied with, which resulted in the main appeal itself being dismissed vide order dated 06.03.2026, which is challenged in W.P.No.12454 of 2026 by the petitioners/borrowers.

7. Section 18 of the SARFAESI Act contemplates that the borrower, while filing an appeal under Section 18 challenging the order passed by the Debts Recovery Tribunal, is liable to make pre-deposit of 50% of the amount due as contemplated under sub-section (3) of Section 18 of the Act. However, the Debt Recovery Appellate Tribunal, in its discretion, could waive the pre-deposit upto an extent of 25%, as held by the Hon'ble Supreme Court in ***Narayan Chandra Ghosh vs. UCO Bank (2011) 4 SCC 548.***

8. It could be seen that already the Debt Recovery Appellate Tribunal, exercising its discretionary jurisdiction, had only directed the

petitioners/borrowers to deposit 25% as pre-deposit out of the amount due under the sale notice, which was Rs.5,61,00,141/-. The Debt Recovery Appellate Tribunal had further taken note of the payment made by the borrowers amounting to Rs.84,16,000/- on 26.12.2025 and deducted that amount while calculating 25% of pre-deposit.

9. Now the petitioners/borrowers claim that subsequent to the order of the Debt Recovery Appellate Tribunal, they have paid a further sum of Rs.98,54,061/- on 20.03.2026 in S.A.No.138 of 2026. Learned counsel for the respondent/bank submitted that this amount, as claimed by the petitioners, would be given effect while calculating 25% of pre-deposit and it is also submitted that the said amount has been paid directly to the bank.

10. When admittedly the petitioners/borrowers have paid this amount as claimed by them, we are of the considered opinion that this amount could also be deducted and taken note of while arriving at 25% of the amount to be paid towards pre-deposit for entertaining the appeal.

11. Insofar as the other contention made by the learned counsel for the petitioners/borrowers that they may be permitted to approach the bank for one time settlement, the law is well settled that no writ of mandamus can be issued by the High Court in exercise of powers under Article 226 of the Constitution of India directing a financial institution and/or bank to positively grant the benefit of OTS to a borrower. In ***Bijnor Urban Cooperative Bank Limited, Bijnor and another v. Meenal Agarwal and others***[1], the Supreme Court held thus:

> *"14. The sum and substance of the aforesaid discussion would be that* ***no writ of mandamus can be issued by the High Court in exercise of powers under Article 226 of the Constitution of India, directing a financial institution/bank to positively grant the benefit of OTS to a borrower.*** *The grant of benefit under the OTS is always subject to the eligibility criteria mentioned under the OTS scheme and the guidelines issued from time-to- time. If the bank/financial institution is of the opinion that the loanee has the capacity to make the payment and/or that the bank/financial institution is able to recover the entire loan amount even by auctioning the mortgaged property/secured property, either from the loanee and/or guarantor, the bank would be justified in refusing to grant the benefit under the OTS scheme. Ultimately, such a*

[1](2023) 2 SCC 805

decision should be left to the commercial wisdom of the bank whose amount is involved and it is always to be presumed that the financial institution/bank shall take a prudent decision whether to grant the benefit or not under the OTS scheme, having regard to the public interest involved and having regard to the factors which are narrated hereinabove.

15. In view of the aforesaid discussion and for the reasons stated above, ***we are of the firm opinion that the High Court, in the present case, has materially erred and has exceeded in its jurisdiction in issuing a writ of mandamus in exercise of its powers under Article 226 of the Constitution of India by directing the appellant Bank to positively consider/grant the benefit of OTS to the original writ petitioner.*** *The impugned judgment and order, Meenal Agarwal v. State of U.P., 2021 SCC OnLine All 989, passed by the High Court is hence unsustainable and deserves to be quashed and set aside and is accordingly quashed and set aside."*

(emphasis supplied)

12. In such circumstances, both the writ petitions are disposed of as follows:

(i) The order dated 27.01.2026 of the Debt Recovery Appellate Tribunal passed in I.A.No.108 of 2026 in AIR No.131 of 2026 stands modified to the extent that the sum of

Rs.98,54,061/- claimed to have been paid by the petitioners/borrowers on 20.03.2026 would also be deducted while arriving at 25% pre-deposit to be made for entertaining the appeal. If the said amount was paid by the borrowers directly to the bank, the same may be taken into account while arriving at the balance amount of 25% of pre-deposit.

(ii) The petitioners/borrowers are given two weeks' time to make the balance amount of pre-deposit, after deducting the sum of Rs.98,54,061/-, in which event, the Debt Recovery Appellate Tribunal shall restore the appeal on file and decide the same on its own merits;

(iii) The consequential order dated 06.03.2026 shall stand set aside. However, it is made clear that in the event of the petitioners/borrowers not making the balance payment of pre-deposit within the stipulated time, the order dated 06.03.2026 would stand restored.

13. WMP Nos.5400 and 13623 of 2026, filed by the petitioners to permit them to join and file a single writ petition stands allowed, inasmuch as separate court-fee has been paid.

There shall be no order as to costs. Consequently, the other interim applications stand closed.

(SUSHRUT ARVIND DHARMADHIKARI, CJ.) (G.ARUL MURUGAN, J.)
20.07.2026

Index : Yes/No
Neutral Citation : Yes/No
sra

To

The Authorised Officer,
Indian Overseas Bank,
Asset Recovery Management Branch,
3rd Floor, Annexe Building,
Central Office Building,
763, Anna Salai, Chennai 600 002.

THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN, J.

(sra)

WP Nos.12454 and 4834 of 2026

20.07.2026