30.07.2026
Item No. 1
Ct. No. 8
agm/gb

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

CO/100/2026

Chandan Bhowal
VS
Authorized Officer, TATA Capital Housing Finance Limited & Ors.

Mr. Utpal Saha.
Ms. Puja Bhupal.
Mr. Debashri Dhar.
.....For the Petitioner.

Mr. Kunaljit Bhattacharjee. A.G.P.
Mr. Abhijit Raha.
..... For the State.

Mr. Sayak Ranjan Ganguly.
Mr. Milindo Paul.
Mr. Nabankur Paul.
Mr. Bedashruti Bose.
..... For the opposite party no. 1.

1. The present revisional Application under Article 227 of the Constitution of India has been preferred, challenging inter alia, the order dated 30.06.2026 passed by the learned Presiding Officer, Debt Recovery Tribunal, Siliguri, in SA(DY) No. 317/2026.

2. By the impugned order, the learned Tribunal dismissed the applicant's 'Securitisation Application' (SA), filed under Section 17 (1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act, 2002) as not maintainable.

3. Apropos the facts of the case, it is stated that the opposite party is a Housing Finance Company (HFC) duly registered with the National Housing Bank under Section 29A of the NHB Act, 1987 and is also registered as a Non-Banking Financial Company (NBFC) with the Reserve Bank of India (RBI). It is further listed in the RBI's list of NBFS dated 21.07.2026 at serial No. 7668.

4. The petitioner had availed a housing loan facility from the opposite party no. 1, Tata Capital Housing Finance Limited. Upon the alleged default, the secured creditor issued the following:

(i) Demand notice under Section 13(2) dated 05.04.2024.

(ii) Possession notice under Section 13(4) dated 04.09.2024.

(iii) Order under Section 14 was passed by the learned ACJM, Siliguri, on 08.04.2025.

(iv) Redemption notice under Section 13(8) dated 22.01.2026.

5. The opposite party extended the financial facilities to the petitioner which have subsequently been classified as Non Performing Asset. In exercise of the powers conferred under the SARFAESI Act, the opposite party initiated measures for enforcement of security interest against the secured assets of the petitioner.

6. The petitioner filed SA (DY) No. 317/2026 before the Debt Recovery Tribunal (DRT), Siliguri, within 45 days of the date of the notice dated 22.01.2026. The DRT vide order dated 30.06.2026, dismissed the said 'Securitisation Application' (SA) with a liberty to the petitioner to file a fresh application, if any future measure is taken by the secured orders.

7. The DRT held that the notice dated 22.01.2026, issued under Section 13(8) of the SARFAESI Act, did not constitute a "redemption notice" and did not amount to a coercive measure. Therefore, it did not give rise to any cause of action under Section 17(1) of the SARFAESI Act, 2002.

8. Learned Counsel appearing on behalf of the petitioner submits as follows:-

a. That the secured creditor, being the opposite party TATA Housing Finance Limited, is a non-banking financial institution as defined in Clause (f) of Section 45-I of the Reserve Bank of India Act 1934, having assets worth Rs. 100 crores and above.

b. The opposite party No. 1 is a Housing Finance Company registered under Section 29A of the National Housing Bank Act, 1987, and therefore falls within the definition of a "Non-Banking Financial Company" in terms of the notification issued by the Central Government dated 12.02.2021. Accordingly, the provisions of the SARFAESI Act, 2002 are applicable only where the amount of secured debt is Rs. 20 lakhs or above.

c. In support of the aforesaid submission the petitioner relies upon the judgment in **FMA 161 of 2026 with CAN 1 of 2026 Piramal Capital & Housing Finance Limited & Ors. vs. Golam Sabir & Ors. dated 9.4.2026** by placing reliance upon paragraph nos. 29 to 33 which are reproduced below:

"29. *In the case in hand, the borrowers brought on record the notification of September 14, 2023 and also the master circulars and directions, which would indicate that, HFCs had been classified as NBFCs, being sub-categorised as a non-deposit taking HFC.*

30. The Central Government specified in 2020 that NBFCs as defined in clause (f) of 45-1 of the RBI Act having assets worth Rs. 100 crores and above would be entitled to enforce security interest if the secured debts were Rs. 50 lakhs and above, as a financial institution for the purpose of the said Act. This threshold of 50 lakhs was reduced to 20 lakhs by the amendment vide notification dated February 12, 2021. Both the notifications are quoted below :-

"NOTIFICATION

New Delhi, the 24th February, 2020

S.O. 856(E). In exercise of the powers conferred by sub-clause (w) of clause (m) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2022 (54 of 2002), and in supersession of the notifications of the Government of India, Ministry of Finance numbers S.O. 2641(E), dated 5th August, 2016, S.O. 4176(E) dated the 27th August, 2018, and S.O. 5391(E) dated 24th October, 2018, except as respects things done or omitted to be done before such supersession, the Central Government hereby specifies such non-banking financial companies as defined in clause (fo of section 45-1 of the Reserve Bank of India Act, 1934(2 of 1934), having assets worth rupees one hundred crore and above, which shall be entitled for enforcement *of security interest in secured debts of rupees fifty lakh and above, as financial institutions for the purposes of the said Act."*

"NOTIFICATION

New Delhi, the 12th February, 2021

S.O. 652(E). In exercise of the powers conferred by sub-clause (iv) of clause (m) of subsection (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Finance (Department of Financial Services), number S.O. 856 (E), dated the 24th February, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 25th February, 2020, namely:-

In the said notification, for the words, "rupees fifty lakh and above" the words "rupees twenty lakh and above" shall be substituted."

31. The notifications were made applicable to financial institutions for the purpose of the SARFAESI Act. The notification of 17th June, 2021 specified that HFCs registered under sub-section 5 of Section 29A of the NHB Act, 1987 having assets worth Rs. 100 crores and above would be a financial institution for the purpose of the SARFAESI Act. Thus, a combined reading of the notification of February 24, 2020 and of June 17, 2021 would indicate that Central Government specified that such Non-Banking Financial Companies which fell within the definition of Section 45-1 (f) of the RBI Act being a financial institution, would be entitled to proceed under the SARFAESI Act to recover *secured debt of Rs. 50 lakhs and above, which was later reduced to 20 lakhs upon granting the HFCs the status of a financial institution. The notification of June 17 also granted HFCs the status of financial institution for the purpose of the Act and moreover, as per Section 45-1 financial institutions were companies falling within the definition of NBFC.*

32. Under such circumstances, we do not have any hesitation to hold that the learned Single Judge rightly arrived at a finding that the notifications of February 24, 2020 and February 12, 2021 would be applicable in the case of the appellant no. 1. By the time the notice under Section 13(2) of the SARFAESI Act had been issued by the appellant no. 1, the appellant no. 1 was already under the umbrella and/or within the definition of the NBFC for the purpose of invocation of the provisions of the SARFAESI Act.

33 Thus, we agree with the conclusion arrived at by the learned Single Judge that once HFCs had been notified as financial institutions on June 17, 2021 and brought within the purview of the SARFAESI Act and upon being within the regulatory framework of the Reserve Bank of India, there was no reason to hold that an HFC would not be bound by the notification of February 24, 2020 as modified on February 12, 2021. The appellant no. 1 was clearly covered by the notifications and could not proceed under the SARFAESI Act in respect of the claim against the borrowers, which was below Rs. 20 lakhs."

9. In the case of **Piramal Capital & Housing Finance Limited** (supra) the Hon'ble Division Bench was pleased to uphold the decision of the Hon'ble Single Bench rendered in **WPA 1400 of 2025 Golam Sabir and Anr. Vs. Piramal Capital and Housing Finance Limited and Ors.** The Hon'ble Division Bench further observed that the decision of the Madhayapradesh High Court in **Virendra Rathore vs. Tehsildar Distt. Mandsaur (DB)** reported in **ILR 2024 MP 2244(DB)** has been rightly distinguished. The learned Single Judge as observed in paragraph 28 of the **Piramal Capital and Housing Finance Limited**(supra) which is reproduced below:

> *"28.The decision of the Madhya Pradesh High Court in **Virendra Rathore** (supra) was rightly distinguished by the learned Judge. It had been observed in the decision that, there were no notifications which indicated either an express or implied intention of the Central Government to bring Housing Finance Companies within the fold of NBFCs. The relevant paragraphs of the said decision are quoted below:-*
>
> *"29. That it was further contention of the petitioner that the notifications of 2021 & 2022 have applied the pecuniary threshold to all the NBFCs as a generic class, across the*

board and therefore specific mention of any company or for that matter of respondent HFC (SRG Finance) was never needed. Since the minimum pecuniary threshold was being determined and prescribed for all NBFCs across the plane, therefore it would automatically cover Respondent HFC as well. This contention of the petitioner is taken forward only to be rejected. As already stated supra, the HFIs/HFCs being a special genre of Fls/companies, created and regulated by special enactment of NHB Act, the same cannot be compartmentalized in the bogie of NBFCs, more so when NHB Act does not u/s 29-A postulate the applicability of Chapter HI-B r/w Section 45(1)(f) of the RBI Act. Therefore HFIs/HFCs like the respondent cannot impliedly be deemed to have been included under the umbrella of NBFCs, till and until such an intention is express and explicit under the NHB Act or the notifications issued under it. For this reason, therefore the minimum pecuniary threshold of 20 lakhs shall not apply to HFIs/HFCs as contended by the petitioner as prescribed in case of the NBFCs.

30. For yet another reason the contention of the petitioner is liable to be rejected. That being issuance of separate series of notifications by the very same department, very same arm of the Central Government (Ministry of Finance), as would be explicated infra for the HFCs/HFIs. HFCs/HFIs are governed holistically by Section 29- A of the NHB Act, the notifications that have been issued qua them specifically shall regulate applicability of SARFAESI to them and not other notifications issued generically for NBFCs. Bare glance at various notifications *issued for HFCs/HFIs from time to time by the Central Government also shows that earlier HFCs were being mentioned specifically to be treated as FIs under Section 2(1)(m)(iv) of SARFAESL Otherwise there was never any occasion or necessity for the Central Government to have come up with a distinct bee line of notifications for HFCs/HFIs. The fact that notifications are issued separately with a separate list of enumerated HFCs/HFIs by the Central Government is indicative of the regime that HFCs/HFIs stand in an altogether different steel silo then the NBFCs. Ergo therefore the contentions of the respondent deserves acceptance that HFCs/HFIs are an entirely different special class, which are covered under the phrase 'any other institution' adumbrated under Section 2(1)(m)(iv) of SARFAESI Act and can't be classed with other NBFCs."*

10. It is further submitted by the petitioner that in paragraph 25 of the said judgment it has been categorically observed that the notification dated 17.6.2021 read with the definition of NBFC under Clause (f) of Section 45-I of the RBI Act, establishes that the Central Government had specified that HFCs registered under sub section (5) of Section 29A of the NHB Act, 1987 having assets worth Rs. 100 crores and above would qualify as a ‘Financial Institution’ for the purpose of the SARFAESI Act, as defined under Section 2(1) (m) (iv) is quoted below:

"2.(1).(m) "financial institution" means---

(iv) any other institution or non-banking financial company as defined in clause (f) of Section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934), which the central Government may, by notification, specify as financial institution for the purposes of this Act;"

11. It is further submitted that prior to taking possession under Section 13(4) of the SARFAESI Act, the opposite party failed to serve a proper 60 day demand notice upon the petitioner under Section 13(2) thereof. The opposite party also failed to comply with Rule 8 and Rule 9 of the Security Interest (Enforcement) Rules 2002.

12. The petitioner submits that although an appeal lies under Section 18 to DRAT the present revisional application is maintainable on the ground that the learned DRT acted without jurisdiction and in violation of natural justice as observed in the following judgments:

i. In the case of **Atin Arora vs. Oriental bank of Commerce,** being **C.O. 3849 of 2019**- it has been observed in paragraph 23 that Jurisdiction of this Court can be invoked when an order is passed without jurisdiction. The relevant paragraph reproduced hereinbelow:

> "23. *What can be deduced from the above judgments is that the power of judicial review and/or superintendence are the basic features of the constitutionwhich cannot be taken away absolutely but should be exercised in exceptional cases where there is manifest error apparent in the order itself or the order has been passed in disregard to law or there has been violation of principle of natural justice. Thus, the law is that Article 227 of the Constitution of India, gives the High Court the power of superintendence over all courts and Tribunals throughout the territory in relation to which it exercises jurisdiction. jurisdiction cannot be limited or fettered by any act of the state legislature. The supervisory jurisdiction extends to keeping the sub-ordinate Tribunals within the limits of their authority and to seeing that they obeyed the law. The power of the High Court under Article 227 is wide and can be used to meet the ends of justice. It can be invoked to interfere even with an interlocutory order. It is settled law that the power of judicial superintendence under Article 227 must be exercised to keep sub-ordinate courts and Tribunals within the bounds of their authority but the same should not be used as a "cloak of an appeal in disguise" (State of New Delhi vs. Navjot Sadhu reported in (2003) 6 SCC 641).*"

ii. In the case of **M/s. Godrej Sara Lee Ltd. vs. Excise and Taxation Officer,**

2023 SCC OnLine SC 95- it has been observed in paragraph no. 4 which is reproduced hereinbelow:

> *"4. Before answering the questions, we feel the urge to say a few words on the exercise of writ powers conferred by Article 226 of the Constitution having come across certain orders passed by the high courts holding writ petitions as "not maintainable" merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction. Thepower to issue prerogative writs under Article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to Article 329 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the high court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the high courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under Article 226 that has evolved through judicial*

precedents is that the high courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the high court under Article 226 has not pursued, would not oust the jurisdiction of the high court and render a writ petition "not In a long line of decisions, this Court has made it clear that availability of an alternative remedy does not operate as an absolute bar to the "maintainability" of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided by a statute, is a rule of policy, convenience and discretion rather than a rule of law. Though elementary, it needs to be restated that "entertainability" and "maintainability" of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to "maintainability" goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of "entertainability" is entirely within the realm of discretion of the high courts, writ remedy being discretionary. A writ petition despite being maintainable may not be entertained by a high court for very many reasons or relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. Hence, dismissal of a writ petition by a high court on the ground that the petitioner has not availed *the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper."*

iii. In the case of **Surya Dev Rai vs. Ram Chander Rai,** reported at **(2003) 6 SCC 675** –wherein it has been held in paragraph 4 with regard to the Supervisory Jurisdiction of the High Court under Article 227 of the Constitution of India which is reproduced hereinbelow:

"(4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When the subordinate Court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the Court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby the High Court may step in to exercise its supervisory jurisdiction."

13. Since the secured creditor is a Housing Finance company (HFC) registered under Section 29A of the National Housing Bank Act, 1987, it also comes within the purview of the definition of 'Non Banking Financial Company' for the purpose of SARFAESI Act.

14. It is submitted the since the amount involved in the present case is much below the threshold limit of 20 lakhs, the secured creditor is not entitled to initiate proceedings and enforce security interest under SARFAESI Act.

15. It is submitted that although HFC's are exempted for maintaining liquid assets under Section 45-IB of RBI act, 1934 as they comply with Section 29B of NHB Act, 1987, such exemption does not take way the status of HFC's as 'Financial Institution' or their right to invoke the provision under SARFAESI Act. The said exemption is only with respect to prudential norms, not with respect to recovery rights.

16. It is further submitted that Section 45-IB under RBI Act, 1934 requires standard NBFCs to maintain a minimum percentage of liquid assets such as Government securities, against their deposits.

17. By virtue of the RBI Notification No. RBI/2020-21/60, dated 22.10.2020 – Section 45-IB of the RBI Act, 1934 does not apply to HFCs. Accordingly, HFCs are not required to follow the liquid asset maintenance rules applicable to standard NBFCs.

18. HFCs are exempt from Section 45-IB, of the RBI Act, 1934. However, compliance with Section 29B of the NHB Act, 1987, is mandatory as it impases the same asset-holding requirements. Such exemption does not perse, exempt HFCs from complying with the threshold limit specified under RBI Notification No.: S.O. 652(E), dated 12.02.2021.

19. In the present case, the outstanding dues are much below the said threshold. Therefore, the entire proceedings initiated by the secure creditor, including the impugned notices, are without jurisdiction, and void ab initio and is liable to be set aside.

20. The learned DRT erred in law by holding that a notice issued under Section 13(8) is not a measure under Section 13(4) and, therefore, is not challengeable under Section 17(1) of the SARFAESI Act.

21. A notice under Section 13(8) is the final step prior to auction and is inextricably linked to the enforcement process. Any step taken in furtherance of the enforcement process is amenable to challenge.

22. Thus the SA was filed within 45 days from the date of the notice dated 22.01.2026 and is, therefore, within time.

23. The DRT erred in recording on the one hand, that SA was hopelessly barred by limitation and on the other hand, in examining the correctness of the orders passed as well as the compliances made by the opposite party. In this context, learned counsel for the petitioner places reliance on a judgment of the Hon'ble High Court at judicature at Allahabad (Lucknow) in the case of Vimla Kashyap and Ors. vs. Union of India and Ors. Matter under Article 227 No. 3953 of 2025 in paragraph nos. 6 and 8 which are reproduced hereinbelow:

> *"6. Challenging the said order, the Counsel for the petitioners argues that the DRT had erred in recording on one hand that S.A. was hopelessly barred by limitation and on the other hand, has gone into the correctness of the orders passed as well as compliances done by the respondents. It is argued that the DRT had erred in holding that the S.A. is barred by limitation, inasmuch as, it is well settled that the steps prescribed under Section 14 are in furtherance of the steps prescribed under Section 13(4) and thus, the steps under Section 13(4) and Section 14 would be a continuous cause of action enabling the petitioners to challenge the proceedings by approaching the DRT under Section 17 from any of the said dates and it is*

incumbent upon the DRT to adjudicate the grievance on merits. It is further argued that even the steps under Section 14 aresubjected to judicial review by DRT and on the one hand, the DRT held that the S.A. is barred by limitation and on the other hand, it had reviewed the action under Section 14, which is bad in law.

7. The Counsel for the respondent no.3 ………..

8. Considering the submissions made at the bar and recorded hereinabove, ex-facie, the observations made by the DRT that the S.A. was hopelessly barred by limitation is utterly erroneous as the starting point of limitation has been considered by the DRT to be the service of notice under Section 13(4) and not the knowledge derived by the petitioners as pleaded by them, from the date when the order under Section 14 was affixed."

24. The DRT failed to appreciate that the dismissal 'with liberty' causes prejudice, as the secured creditor may proceed with the auction of the property without any adjudication on the jurisdictional issue.

25. Learned counsel for the petitioner submits that the Hon'ble Division Bench of this Hon'ble court in the case of **Piramal Capital & Housing Finance Limited** (supra) has categorically held that HFCs are "financial Institutions under SARFAESI Act.

The said judgment has distinguished **Virendra Rathore** (supra) of MP High court and has not been overruled till date. Hence, it is the prevailing law.

26. Learned Counsel appearing for the opposite party No. 1 vehemently opposes the submissions of the petitioner and raises a preliminary objection at the outset to the maintainability of the revisional application since there is an alternative statutory remedy available under Section 18 of the SARFAESI Act to challenge the order impugned herein by relying upon a judgment of The Hon'ble Supreme Court in the case of **PNB Housing Finance Limited, v. Manoj Saha** reported at **2025 SCC OnLine 1443** has held that High Court shall not entertain writ/revisional application when statutory remedy is available and is also not permitted to circumvent the legislative mandate and avoid the statutory precondition of pre-deposit by invoking an alternative forum. The petitioner has bypassed DRAT only for forum shopping. Secondly it has been submitted that the petitioner has defaulted in repayment and that the loan account was duly classified as NPA. All statutory notices were duly issued and served.

27. The notice dated 22.01.2026 was admittedly issued under Section 13(8) of the SARFAESI Act, 2002.

28. It is settled law that a redemption notice is not a coercive measure and does not give rise to a cause of action under Section 17(1). Therefore, the DRT rightly dismissed the SA as not maintainable.

29. The petitioner did not file any representation under Section 13(3A) upon receipt of the notice issued under Section 13(2). Further, an order under Section 14 for taking physical possession has already been obtained.

30. The learned counsel submits that the Central Government of India is only entitled to specify any financial institution for the purpose of the SARFAESI Act, by way of a notification and no other authority is entitled to define the classification of a financial institution for the purpose of SARFAESI Act, 2002. Therefore, it is the Central Government of India which has prescribed the threshold limit of Rs. 20 Lakhs for invocation of the SARFAESI Act, in respect of a non-banking financial company as defined in Clause (f) of the Section 451 of the Reserve Bank of India Act. Subsequent to such notification, the Central Government of India issued a notification dated June 18, 2021, specifying that Housing Finance Companies registered under Sub section 5 of Section 29A of the NHB Act, having assets worth Rs. 100 Crs and above are the 'financial institutions' for the purpose of SARFAESI Act. Therefore, the circulars issued by RBI terming HFCs as NBFCs are applicable only in so far as regulatory purpose is concerned. Hence, the petitioner is not entitled to any protection or relief as claimed and accordingly the revisional application is not maintainable.

31. It is further submitted by the learned counsel for the opposite party that by virtue of a notification dated 17.06.2021, the Central Government notified Housing Finance Companies registered under sub-Section (5) of Section 29A of the National Housing Bank Act, 1987, having assets worth Rs. 100 Crores or more, shall be deemed to be "Financial Institutions" for the purposes of the SARFAESI Act, 2002.

32. It is further submitted that opposite parties being Housing Finance Company are duly registered under sub-section (5) of Section 29A of the National Housing Bank Act, 1987, and are not Non-Banking Financial Companies falling within the definition of a “financial institution” under clause (f) of Section 45a-I of the Reserve Bank of India Act, 1934.

33. It is further submitted that by judgment dated 9th April, 2026 passed in **FMA 161 of 2026 in Piramal Capital & Housing Finance Limited** (supra) the Hon’ble Division Bench of Hon’ble High Court at Calcutta affirmed the judgment dated 24.12.2025, passed by the Hon’ble Single Judge in WPA no. 14007 of 2025, thereby upholding the notifications of 2020 and 2021 to be binding upon a ‘Financial Institution’ falling within the ambit of Clause (f) of Section 45I of the RBI Act. It was further clarified that the Single Bench that all Housing Finance Companies can be classified as NBFC and they do not fall within the mischief of the notifications of 2020 and 2021 unless such HFCs have assets of 100 crores and above as notified by the Central Government. Further HFCs are specifically notified as NBFC under Section 45(I) of the Reserve Bank of India Act, 1934. Learned counsel places reliance upon paragraph 29 of the judgment **Virendra Rathore** (supra) which is reproduced hereinbelow;

> *"29. That it was further contention of the petitioner that the notifications of 2021 &2022 have applied the pecuniary threshold to all the NBFCs as a generic class, across the board and therefore specific mention of any company or for that matter of respondent HFC (SRG Finance) was never needed. Since the minimum pecuniary threshold was being determined and prescribed for all NBFCs across the plane, therefore it would automatically cover Respondent HFC as well. This contention of the petitioner is taken forward only to be rejected. As already stated supra, the HFIs/HFCs being a special genre of Fls/companies, created and regulated by special enactment of NHB Act, the same cannot be compartmentalised in the bogie of NBFCs, moreso when NHB Act does not u/s 29-A postulate the applicability of Chapter III-B r/w Section 45(I) (f) of the RBI Act. Therefore HFIS/HFCs like the respondent cannot impliedly be deemed to have been included under the umbrella of NBFC's, till and until such an intention is express and explicit under the NHB Act or the notifications issued under it. For this reason, therefore the minimum pecuniary threshold of 20 Lakhs shall not apply to HFIs/HFCs as contended*

by the petitioner as prescribed in case of the NBFCs.

34. Having heard the parties and upon perusing the records made available, this Court finds that the primary issues which arises for consideration are as follows:-

(a) Whether the provisions of SARFAESI Act, 2002 are applicable in the facts of the present case in view of the alleged threshold limit of Rs. 20 lakhs.

(b) Whether an application under Section 17(1) of the SARFAESI Act, 2002 is maintainable against a notice issued under Section 13(8) of the said Act.

(c) Whether the DRT was justified in dismissing the SA are the threshold without calling for affidavits from the parties.

35. This Court is of the prima facie view that the issue regarding the applicability of the threshold limit and the total outstanding dues involves disputed questions of fact. Similarly, the question of law as to whether a notice under Section 13(8) is amenable to challenge under Section 17(1) requires detailed consideration.

36. This Court takes judicial note of the Notification No. S.O. 498(E) dated

12.02.2001, issued by the Ministry of Finance, whereby the Central Government prescribed Rs. 20 lakhs as a minimum amount of debt for enforcement under Section 13(2) of the SARFAESI Act, 2002.

37. The opposite party No. 1, being a Housing Finance Company, is covered by the definition of a Non-Banking Financial Company for the purpose of SARFAESI Act, 2002.

38. Upon perusal of the loan documents annexed the outstanding principal amount, as on date of the notice issued under Section 13(2), appears to be less than Rs. 20 lakhs.

39. The respondent has not placed any document to show otherwise. When the very jurisdiction to invoke is in question, the Tribunal ought to have decided the issue as a preliminary matter.

40. This court is of the view that the SARFAESI 2002 are not applicable to the petitioner as the secured debt is below the statutory threshold of Rs. 20 Lakhs.

41. Consequently all action taken without meeting the threshold are without jurisdiction.

42. Section 13(8) provides the borrower with the right of redemption to the borrower prior to the date of auction. It is a consequential step to the measures taken under Section 13(4) of the said Act.

43. While a standalone challenge to a notice under Section 13(8) may not be maintainable, where the very initiation of proceedings under the SARFAESI Act is under challenge on the ground of lack of jurisdiction, the borrower cannot be non-suited on a mere technicality.

44. The DRT dismissed the SA on the ground of limitation without calling for affidavits to substantiate the alleged delay in the instant case.

45. The DRT ought to have examined the threshold/jurisdictional issue first before dismissing the SA on maintainability. Dismissal is therefore not sustainable.

46. Thus, the order passed by the DRT suffers from legal infirmity and is not sustainable in the eyes of law.

47. In view of the above, this Court finds that the SARFAESI Act, 2002 is not applicable to the loan account of the petitioner as the secured debt is below the statutory threshold of RS. 20 lakhs.

48. Consequently, all actions taken by opposite party No. 1 under Sections 13(2), 13(4), 13(8) and 14 of the SARFAESI Act, 2002 are held to be without jurisdiction and are hereby quashed.

49. Accordingly, the order dated 30.06.2026 passed by the DRT, Siliguri, in SA(DY) No. 317/2026 is hereby set aside.

50. The opposite party No 1 is restrained from taking any coercive action against the petitioner under the SARFAESI Act, 2002, in respect of the loan account in question.

51. However, it shall be open to opposite parties to recover the dues, if any, in accordance with law before the appropriate forum that is Civil Court.

52. Accordingly, the revisional application, being CO No.100 of 2026 is allowed and disposed of along with all connected applications, if any.

53. There shall be no order as to costs.

54. Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)