CGHC010132692026 2026:CGHC:38279

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPC No. 1593 of 2026**

**1 -** M/s. Aditya Rice Mill Through Its Proprietor- Shri Nitin Sahu, S/o Shri Nathu Prasad Sahu, Aged About 41 Years, R/o Behind The Masjid, Pendra, District- Gaurela-Pendra-Marwahi (C.G.).

**2 -** Shri Nitin Sahu S/o Shri Nathu Prasad Sahu Aged About 41 Years R/o Behind The Masjid, Pendra District- Gaurela-Pendra-Marwahi (C.G.).

**3 -** Shri Nathu Prasad Sahu S/o Late Shri Lalta Prasad Sahu Aged About 69 Years R/o Behind The Masjid, Pendra, District- Gaurela-Pendra-Marwahi (C.G.).

**--- Petitioner(s)**

**versus**

**1 -** State Bank Of India Through Its Authorised Officer/ Manager, Having Its Corporate Office At State Bank Bhavan, Madam Cama Road, Nariman Point, Mumbai, Maharashtra And Local Office At Pendra Vb Branch, Near Jain Mandir, Pendra, District- Gaurela-

Pendra-Marwahi (C.G.).

--- **Respondent(s)**

**WPC No. 1901 of 2026**

**1 -** M/s. Aditya Agro, Through Its Proprietor- Smt. Urmila Sahu, W/o- Shri Nathu Prasad Sahu, Aged About 62 Years, R/o- Behind The Masjid, Pendra, District-Gaurela-Pendra-Marwahi (C.G.).

**2 -** Smt. Urmila Sahu, W/o- Shri Nathu Prasad Sahu, Aged About 62 Years R/o- Behind The Masjid, Pendra, District-Gaurela-Pendra-Marwahi (C.G.).

**3 -** Shri Nathu Prasad Sahu, S/o- Late Shri Lalta Prasad Sahu, Aged About 69 Years R/o- Behind The Masjid, Pendra, District-Gaurela-Pendra-Marwahi (C.G.).

---**Petitioner(s)**

**Versus**

**1 -** State Bank Of India Through Its Authorised Officer/ Manager, Having Its Corporate Office At State Bank Bhavan, Madam Cama Road,natiman Point, Mumbai, Maharashtra And Local Office At Pendra Vb Branch, Near Jain Mandir , Pendra, District-Gaurela-Pendra-Marwahi (C.G.).

--- **Respondent(s)**

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|---|---|---|
| For Petitioner(s) | : | Mr. Arpan Verma, Advocate. |
| For Respondent(s) | : | Mr. P. R. Patankar, Advocate. |

**Hon'ble Mr. Justice Amitendra Kishore Prasad**

**Order on Board**

**25/08/2026**

1. Since common question of facts and law is involved in both the cases, as such, both the petitions are being disposed of by this common order.

2. The petitioners have prayed for certain reliefs in the writ petitions. Though there are some sort of differences in respect of prayer made by the petitioners in all the petitions, however, in sum and substance, the reliefs are altogether similar and identical. The reliefs prayed in ***WPC No. 1593/2026 (M/s. Aditya Rice Mill and others vs. State Bank of India)*** are quoted hereinbelow in order to consider these cases and to decide the same.

   *"1] That this Hon'ble Court may further kindly be pleased to appropriate writ/writs, order/orders, direction/directions and the notice dated 05.03.2026 issued to Petitioner No.01 namely M/s. Aditya Rice Mill (ANNEXURE-P/1), notice dated 05.03.2026 issued to Petitioner No.02 (ANNEXURE-P/2) and notice dated 05.03.2026 issued to Petitioner No.03 (ANNEXURE-P/3) issued under Section 13(2) of the SARFAESI Act may kindly be quashed, in the interest of justice and all the further proceedings initiated by the Bank in pursuance of the impugned notices may also kindly be quashed, in the interest of justice.*

   *2] That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case."*

3. Learned counsel for the petitioners submits that the present petition has been preferred seeking quashment of the notices

dated 05.03.2026 issued by the respondent under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), whereby the respondent has sought to initiate fresh proceedings against the petitioners despite the fact that proceedings arising out of the earlier notices issued under the SARFAESI Act are already pending before the Debts Recovery Tribunal, Jabalpur, Madhya Pradesh. It is submitted that Petitioner No.1, a rice mill, has been engaged in the business of custom milling of paddy for Chhattisgarh State Co-operative Marketing Federation Limited for several years and had availed financial assistance from the respondent in the year 2015 in the form of a Cash Credit facility of Rs.40 lakhs and a Term Loan facility of Rs.28 lakhs, for which Petitioner No.3 stood as guarantor. Learned counsel further submits that due to non-availability of storage space at the godown of the Chhattisgarh State Co-operative Marketing Federation Limited, two lots comprising 540 quintals of rice belonging to Petitioner No.1 were damaged on account of heavy rainfall in April, 2016, pursuant to which the Federation stopped issuing Delivery Orders to the petitioners and also requested the respondent for encashment of the bank guarantees. Thereafter, the respondent issued demand notices dated 01.11.2017 and 18.12.2017 under Section 13(2) of the SARFAESI Act, to which the petitioners submitted their reply under Section 13(3A), but ignoring the objections raised therein, the respondent proceeded

to issue a possession notice dated 17.02.2018 under Section 13(4) of the SARFAESI Act. Aggrieved thereby, the petitioners approached the Debts Recovery Tribunal, Jabalpur, by filing a Securitisation Application, which is still pending consideration, and the respondent has also instituted proceedings before the said Tribunal, in which the petitioners have already filed their reply. It is submitted that, notwithstanding the pendency of the aforesaid proceedings, the respondent has issued the impugned fresh notice dated 05.03.2026 under Section 13(2) of the SARFAESI Act, stating that the earlier notice dated 01.11.2017 and the proceedings pursuant thereto have been withdrawn, and has thereby sought to recommence the entire recovery proceedings afresh. Learned counsel submits that such action of the respondent is arbitrary, illegal and impermissible, particularly when the earlier proceedings arising from the same transaction are pending adjudication before the competent Debts Recovery Tribunal, and that the petitioners are being subjected to undue mental, physical and financial harassment on account of the repeated initiation of proceedings; hence, the impugned notices dated 05.03.2026 deserve to be quashed.

4. On the other hand, learned counsel appearing for the respondent-Bank submits that the SARFAESI Act provides a specific statutory mechanism under Section 13(3A) for raising objections and challenging the demand notice issued under Section 13(2) of the SARFAESI Act. It is contended that the petitioners, instead of

availing the efficacious statutory remedy available to them under the provisions of the SARFAESI Act and approaching the competent authority in accordance with law, have directly invoked the extraordinary jurisdiction of this Court by filing the present petition. Learned counsel further submits that, in the absence of any exceptional circumstance warranting interference by this Court at this stage, the petition is not maintainable and deserves to be dismissed on the ground of availability of an alternative and efficacious statutory remedy. He has placed reliance upon the judgment passed by the Hon'ble Supreme Court in the matters of ***Devi Ispat Limited vs. State Bank of India and ICICI Bank Ltd Etc Etc vs. Umakanta Mohapatra Etc Etc.***

5. I have heard learned counsel for the parties and having perused the material available on record.

6. The Hon'ble Supreme Court in the matter of ***Devi Ispat Limited vs. State Bank of India*** decided on ***16th April, 2014***, the Hon'ble Supreme Court has observed as under:-

> *"(9.) The learned Single Judge hearing the writ petition dismissed it by an order dated 19th March 2013 on the sole ground that Devi Ispat had an alternate statutory remedy under Section 13(3A) of the SARFAESI Act to make a representation against the letter issued under Section 13(2) thereof.*
>
> *(10.) Section 13(3A) of the SARFAESI Act reads as follows: "13. Enforcement of security interest. 1), (2) and*

*(3) xxx*

*(3A) If, on receipt of the notice under sub-section (2), the borrower makes any representation or raises any objection, the secured creditor shall consider such representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate within one week of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower.*

*Provided that the reasons so communicated or the likely action of the secured creditor at the stage of communication of reasons shall not confer any right upon the borrower to prefer an application to the Debts Recovery Tribunal under section 17 or the Court of District Judge under section 17A."*

*(11.) After the dismissal of its writ petition, Devi Ispat made a representation to the Bank under Section 13(3A) of the Act on 22nd March 2013. This was followed almost immediately thereafter by an intra court appeal filed against the order of the learned Single Judge. Although the appeal was filed on 1st April 2013 (and we have gone through the contents of the appeal memo) there is no mention of Devi Ispat having made a representation to the*

*Bank under Section 13(3A) of the Act.*

*(12.) Be that as it may, the representation was considered by the Bank and rejected on 2nd April 2013. The Division Bench was informed of this during the hearing of the intra court appeal on 26th April 2013.*

*(15.) While challenging the order dated 26th April 2013 passed by the Division Bench, learned counsel submitted that Devi Ispat had no alternative but to file a writ petition challenging the notice issued by the Bank on 18th January 2013. We find no merit in this contention.*

*(16.) Firstly, Devi Ispat had an alternate remedy to make a representation to the Bank under the provisions of Section 13(3A) of the Act and there was no reason to by-pass the statutory mechanism."*

7. The Hon'ble Supreme Court in the matter of ***ICICI Bank Ltd Etc Etc vs. Umakanta Mohapatra Etc Etc*** decided on ***05th October, 2018,*** the Hon'ble Supreme Court has observed as under:-

*"(3.) Despite several judgments of this Court, including a judgment by Hon'ble Mr. Justice Navin Sinha, as recently as on 30.01.2018, in Authorized Officer, State Bank of Travancore and Anr Mathew K.C, 2018 3 SCC 85, the High Courts continue to entertain matters which arise under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI), and keep granting interim orders in favour of*

*persons who are Non-Performing Assets (NPAs).*

*(4.) The writ petition itself was not maintainable, as a result of which, in view of our recent judgment, which has followed earlier judgments of this Court, held as follows:-*

*"18. We cannot help but disapprove the approach of the High Court for reasons already noticed in Dwarikesh Sugar Industries Ltd. vs. Prem Heavy Engineering Works (P) Ltd. and Another, 1997 6 SCC 450, observing:-*

*"32. When a position, in law, is well settled as a result of judicial pronouncement of this Court, it would amount to judicial impropriety to say the least, for the subordinate courts including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily has the effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops.""*

*(5.) The writ petition, in this case, being not maintainable, obviously, all orders passed must perish, including the impugned order, which is set aside."*

8. Considering the facts and circumstances of the case, and particularly taking into account the fact that the Securitisation

Application (S.A.) preferred by the petitioner is already pending consideration before the Debts Recovery Tribunal (DRT), Jabalpur, and that the concerned Bank has also instituted O.A. No. 1058/2018 before the said Tribunal, this Court is of the considered view that the issues involved in the present matter are liable to be adjudicated by the competent DRT. In view of the law laid down by the Hon'ble Supreme Court in **Devi Ispat Limited v. State Bank of India** and **ICICI Bank Ltd. Etc. Etc. v. Umakanta Mohapatra Etc. Etc.**, the parties are relegated to the jurisdiction of the concerned DRT, Jabalpur, for adjudication of their respective claims and grievances in accordance with law. Accordingly, the parties shall be at liberty to pursue the proceedings already pending before the DRT, Jabalpur, and the Tribunal shall consider and decide the same on its own merits, in accordance with law. The petitioner may also raise the issue that Bank is issuing notice repeatedly, while ignoring this fact that proceedings are pending before DRT.

9. With this observation and direction, the writ petitions stand **disposed of.**

10. The interim order granted by this Court in both the petitions shall remain operative for a period of 10 days from the date of receipt of a copy of this order.

**Sd/-**

**(Amitendra Kishore Prasad)**
**Judge**

Raghu Jat