IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 1681 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

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Approved for Reporting	Yes	No
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SANGITABEN ARVINDBHAI TEJANI
Versus
ICICI BANK LIMITED

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Appearance:
MS. HINA S RAVAL(7298) for the Petitioner(s) No. 1
V G RAVAL(7637) for the Petitioner(s) No. 1
MR AS PANESAR(5390) for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 09/10/2026

ORAL JUDGMENT

1. Rule returnable forthwith. Learned advocate Mr. A.S. Panesar waives service of notice of rule on behalf of the respondent. With the consent of the parties, the matter is taken up for hearing today itself.

2. The present petition is preferred under Article 226 of the Constitution of India, praying for the following reliefs :-

> *"(A) Your Lordships may be pleased to admit and allow the present petition;*
>
> *(B) Your Lordships may be pleased to issue writ of Mandamus and direct the Respondent to execute registered sale deed in favour of the petitioner after accepting the balance amount of Rs.30,18,750/- for the auction property or in alternatively refund the amount paid (Rs.10,06,250/-) by the petitioner with interest as the petitioner is aggrieved with the action taken by the respondent as mentioned in Annexure F and G of the present*

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petition.

(C) Your Lordships may be pleased to direct the respondent Bank to stay any current/future auction proceedings and further SARFAESI actions;

(D) xxx xxx

(E) xxx xxx.”

3. The brief facts leading to filing of the present is that Dungrani Bipinbhai Diyalbhai (Borrower) Dungrani Manishaben Bipinbhai (Co-Borrower) were granted credit facilities by the respondent – ICICI Bank Limited (hereinafter referred to as “the respondent”). However, due to default made by the borrowers, the respondent has initiated proceedings under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (For Short “ SARFAESI Act”) to recover the dues to the Bank to the tune of Rs.18,12,852/-.

3.1. Thereafter, the petitioner approached the respondent Bank with a view to participate in the E-auction scheduled on 10.10.2025 conducted by the respondent for the sale of immovable secured assets being the disputed property. Pursuant thereto the petitioner participated in the E-auction conducted on 10.10.2025 for the sale of immovable secured assets and bid of the petitioner was accepted by the respondent. The petitioner was declared as the highest bidder for

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a total amount of Rs.40,25,000/- The respondent issued a sale confirmation letter dated 10.10.2025 in favour of the petitioner. It is the case of the petitioner that the petitioner paid 25% of the bid offer price after deducting the amount of earnest money deposit paid on 23.09.2025.

3.2. It is the case of the petitioner that the petitioner addressed a letter to the respondent Bank, expressing unwillingness to purchase the disputed property on account of the existing title dispute and requesting the Bank not to forfeit the amount of Rs.10,06,250/- deposited by the petitioner. The petitioner reiterated the aforesaid facts by way of an e-mail dated 24.10.2025 and also forwarded the Encumbrance Certificate pertaining to the disputed property, which reflects a Registered Agreement to Sell executed by the borrower in favour of Mr. Sanjaybhai Jinabhai Falki on 01.08.2024, bearing Registration No.11663.

3.3. The petitioner further submits that the respondent Bank, vide letter dated 28.11.2025, informed the petitioner of its decision to forfeit 25% of the amount deposited by the petitioner, being Rs.10,06,250/-. It is contended that, while passing the aforesaid decision, the respondent Bank failed to consider the petitioner's earlier representation and the material placed on record with regard

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to the title dispute pertaining to the subject property. It is further contended that the respondent Bank had not specified any timeline within which the petitioner was required to pay the balance sale consideration. Moreover, the petitioner has also been disqualified from participating in future auctions conducted by the respondent Bank.

3.4. Subsequent to forfeiture the respondent Bank issued E-auction sale notice for the sale of immovable property which was scheduled on 20.01.2026. Being aggrieved by the action of the respondent Bank, in particular forfeiture of earnest money deposit, the present writ petition is preferred.

4. Heard learned advocate Mr. V.G. Raval appearing for the petitioner and learned advocate Mr. A.S. Panesar appearing for the respondent.

5. Learned advocate appearing for the petitioner has submitted that the action taken by the respondent under the provisions of the SARFAESI Act and Rules in respect of the subject property is not in consonance with the provisions of the law and is against the settled provisions of SARFAESI Act and Rules. It is further submitted that the entire auction proceedings are conducted without any title

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clearance certificate and the respondent has suppressed the material information while conducting the auction *vis-a-vis* the bank has not disclosed the subsequently executed agreement to sell as mentioned by the petitioner.

6. *Per contra*, learned advocate Mr. A.S. Panesar has raised preliminary objections with regard to the maintainability of the writ petition. Firstly the respondent Company being incorporated under the Companies Act, being private entity would not fall within the purview of the State or its instrumentality of the State and therefore, the writ petition under Article 226 of the Constitution of India would not be maintainable. Secondly, with regard to having efficacious alternative remedy which according to learned advocate for the respondent is that the redressal of the grievances arising out of the action taken by the Bank can be redressed by filing an application under Section 17(1) of the SARFAESI Act as term “any person” is of wide importance and in catena of decisions, the Hon’ble Apex Court has observed that auction purchasers challenging the forfeiture of deposit money can approach Debts Recovery Tribunal (DRT) under the provisions of Section 17 (1) of the SARFAESI Act.

7. In support of his submission, learned advocate for the

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respondent has placed heavy reliance on the decision of the Hon'ble Apex Court in the case of ***Agarwal Tracom Private Limited v. Punjab National Bank Limited*** reported in ***(2018) 1 SCC 626.***

7.1. In view of the aforesaid submissions, learned advocate for the respondent submitted that the present petition is not maintainable and the same is required to be dismissed.

8. After hearing the learned advocates appearing for the respective parties and having perused the material on record, the main consideration is with regard to the appropriate remedy available to the petitioner is not being disputed and the petitioner is not auction purchaser. It is also not in dispute that the amount of earnest money of 25% paid by the petitioner was forfeited. In the case of *Agarwal Tracom Private Limited (supra),* the Hon'ble Apex Court has categorically stated that expressions "any of measures" referred in Section 13(4) of the SARFAESI would include all ingredients of Section 17(1) of the Act. Further it was observed that expression "any person" would envisage that there can be challenge to the action of the secured creditors before the DRT and, therefore, any action of forfeiture would also be available to the petitioner under Section 17(1) of the Act. The relevant observations made by the Hon'ble Apex Court in the case of *Agarwal Tracom Private*

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Limited (supra) is as under :-

> *"29. In our view, therefore, the expression "any of the measures referred to in Section 13(4) taken by secured creditor or his authorised officer" in Section 17(1) would include all actions taken by the secured creditor under the Rules which relate to the measures specified in Section 13(4).*
>
> *30. The auction-purchaser (appellant herein) is one such person, who is aggrieved by the action of the secured creditor in forfeiting their money. The appellant, therefore, falls within the expression "any person" as specified under Section 17(1) and hence is entitled to challenge the action of the secured creditor (PNB) before the DRT by filing an application under Section 17(1) of the SARFAESI Act."*

9. In view of the settled legal position, without adverting to the maintainability of the present petition,this Court is of the view that the petitioner can avail of the alternative statutory remedy by preferring an appropriate application under Section 17(1) of the Act. In the aforesaid circumstances, this Court deems it appropriate not to entertain the present petition and to relegate the petitioner to avail of the aforesaid statutory remedy before the appropriate forum. It is, however, clarified that the period spent by the petitioner in pursuing the present petition before this Court shall be duly considered by the appropriate forum, in accordance with law, while considering the question of delay, if any, in instituting the proceedings.

10. With the aforesaid observations and directions, the present

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petition stands disposed of accordingly. Rule is discharged.

(PRANAV TRIVEDI,J)

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