

JUDICIAL INTERPRETATION OF SARFAESI ACT 2002 IN THE DIRECTION OF STRENGTHENING CREDITORS PROTECTION REGIME IN INDIA

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Abstract

Before SARFAESI Act 2002 , the Debt Recovery Regime in India was absolutely a Pro-Debtors regime and judicial mechanism was also not at par with global standards, resulting in piling of NPA.s. Therefore SARFAESI act 2002 was enacted with the desired objective of reducing NPAs. Initially, there was opposition to the Act through challenge proceedings filed in DRTs to writ petitions filed in High Courts. The Judicial pronouncements which unearth the sentential legis and strengthen the Creditors Protection regime are worth recapitulation.

Keywords: Debt Recovery, Creditors Protection, Security Interest

1. Introduction -

Any legal relationship is governed and evolves by not only relevant statutes but also governed and evolves through precedent setting judicial decisions. The Debtor- Creditor relationship is also no exception to this and therefore it is pertinent to know the precedent setting judicial decisions to understand the sententia legis and reasons for such interpretation by the courts. With regard to SARFAESI Act 2002- Debt Recovery Tribunals, Debt Recovery Appellate Tribunals, High Court and Supreme Court are the sovereign and authoritative interpreters. SARFAESI Act 2002 was enacted in order to strengthen the Creditors Protection Regime and therefore it is worth examining the precedent setting judicial decisions of Debt Recovery Tribunals, Debt Recovery Appellate Tribunals, High Court and Supreme Court which have contributed in legal empowerment of secured creditors as per statement of object and reasons of the Act.

The Financial sector has been one of the key drivers in India's efforts to achieve success in rapidly developing it's economy. While the Banking

Industry in India is progressively complying with the international prudential norms and accounting practices, there are certain areas in which Banking and Financial Sector does not have a level playing field as compared to other participants in the financial markets in the world.....Unlike International Banks, the Banks and Financial Institutions in India do not have power to take possession of securities and sell them. Our existing legal framework has not kept pace with the changing commercial practices and financial sector reforms....(h) Empowering Banks and financial Institutions to take possession of securities given for financial assistance and sell or lease the same or take over the management in the event of default

The statement of objects and reasons highlight that the main purpose of the enactment is legally empowering the Banks and Financial Institutions in terms of enforcement of security interests and strengthening the Creditors Protection Regime at par with global standards. "Creditors' Protection Regime " implies that Creditors are legally empowered both in terms of Substantive Legal Right and Swift Adjudicatory Process. Section 13, 14, 15, 26 E of SARFAESI Act 2002 confers substantive right on the Secured Creditors whereas Section 17 & 18 provide for Adjudicatory Mechanism.

2. Judicial decisions strengthening the Creditors Protection Regime-

It is province of the judicial organ to interpret the provisions of statute consistent with intention of the legislature and therefore it is pertinent to examine the principles evolved through judicial decisions relating to these provisions of SARFAESI Act 2002 which strengthen the Creditors Protection Regime in India relating to following important provisions conferring both substantive and procedural rights to Creditors.

I. SECTION 13 :

1. Borrower may make a representation after receipt of notice under section 13 (2) . Secured Creditor should inform / reply within 15 days if objections are not acceptable. No approach to DRT is possible at this stage.¹
2. A Writ petition to challenge a notice under section 13 (2) is too premature as notice under section 13 (2) is merely a show cause notice.²
3. Only the borrower is entitled to notice under section 13 (2). Guarantor is entitled to notice only if the asset is given as security by the guarantor.³
4. Notice under section 13(2) can be conveyed through an advocate on behalf of secured creditor. The language of section 13(2) does not literally mean that it must be actually written by secured creditor / Authorized Officer. All that is essential is secured creditor must himself take the decision to give that notice.¹
5. Gouhati High Court held that sending notice by RPAD is sufficient compliance by the Banks and thereafter borrower can not take the defense that he did not receive the notice.¹
6. There is no bar under the SARFAESI Act 2002 to issue corrected notice or fresh notice under section 13(2).⁶
7. IInd Notice under section 13 (2) if given need not give 60 days time. It may be less than 60 days as needed to be given after first notice.⁷
8. There is no need of fresh notice by ARC/ assignee after NPA are taken over by ARC / assignee because the assignee steps into the shoes of creditor and is entitled to continue recovery proceedings.⁸
9. Notice under section 13(2) can not be quashed and set aside on the ground that facility wise details of account are not provided.⁹
10. Time limit prescribed under section 13(3)(A) is only directory and noncompliance of time limit will not vitiate the proceedings initiated under section 13(4) of the Act.¹⁰
11. State Financial Corporations are Financial Institutions and therefore can take action under SARFAESI Act 2002.¹¹
12. Once notice under section 13 (2) is given, there is no need to give another notice when measures under section 13 (4) are taken.¹²
13. Action under 13 (2) & 13 (4) can be taken even if proceedings are pending before DRT under RBDBFI Act 2002 and there is no need to withdraw application pending before DRT under RBDBFI Act 1993. There can be simultaneous proceedings under RBDBFI Act 1993 & SARFAESI Act 2002 . Doctrine of election of remedies arises only when there are two or more coexistent remedies at the time of election which are repugnant and coexistent. RBDOFI Act 1993 & SARFAESI Act 2002 are not repugnant and therefore can be simultaneous proceedings.¹³
14. Any mode of sale of secured asset can be adopted, the only requirement is that it should be fair and transparent.¹⁴
15. Secured Creditor can proceed with the auction of secured asset even if application under section 17 is filed by the borrower if no stay has been granted by the tribunal.¹⁵

¹ Mardia Chemicals Ltd V Union of India, AIR 2004 SC 2371² M/s Digivision Electronics Ltd v. Indian Bank (2005) 63 SCL 714 (Mad HC DB)³ M/S Rahamath Steel v. Mahavir Plantations Pvt. Limited & others (2007) 139 Comp. Cas. 740 (Mad)⁴ Asset Reconstruction Company v. Amit Ventures Ltd and others AIR 2007 Cal 49⁵ Noorbari Tea Co Pvt. Limited v. UCO Bank I (2008) BC 668⁶ Bhuvanendran v. LIC Housing Finance Limited IV (2009) BC 564 (ker)⁷ Pooran Lal Arya v. state of Uttaranchal III 2007 BC 285 DB⁸ Shashi Agro foods (p) Ltd v. Andhra Bank IV 2008 BC 294⁹ Aditya Dulani v. Canara Bank I (2011) BC 638 (Jhar)¹⁰ Kirandevi Bansal v. DGM Small Industries Development Bank of India IV (2009) BC 56 DB¹¹ Golden Weaving Mills (P) Ltd v. The Tamil Nadu Industrial Investment Corporation Ltd. (2011) 105 SCL 172¹² (Mad HC DB)¹³ Sundaram Home Finance v. Tahasildar Hosur (2007) 78 SCL 21 (Mad HC DB)¹⁴ M/s Transcore v. Union of India and another (2008) 1SCC 125

Punjab Financial Corporation v. M/s Surya Auto Industries (2010) 1 SCC 297

¹⁵ M/s Lakshmi Shankar Mills (P) Ltd. v. The Authorised Officer (2008) 85SCL 421 (Mad HC DB)

16. Secured Creditors may publish photographs of defaulting borrowers and guarantors in newspapers along with notices of properties and public auction.¹⁶ However Calcutta High Court has dissented and issued directions to the Bank prohibiting them from publishing photographs of borrowers.¹⁷
17. Sale becomes complete in pursuance of sale certificate issued under 9(6) of SARFAESI Rules 2002 and need not be registered in view of provisions contained in section 17 (2) of Registration Act 1908.¹⁸
18. As per 8(5) of SARFAESI Rules 2002, Authorized Officer has to obtain valuation report from approved valuer and fix the reserve price. Merely because there is no right expressly provided to the borrower to get the copy of valuation report would not render 8(5) unconstitutional.¹⁹
19. Secured Creditor on taking possession merely gets a right to sell the property on behalf of debtor and any sale made by secured creditor should be deemed to be a sale made by debtor himself. Assets transferred by secured creditor after taking possession should be treated as transfer made by the owner.²⁰
20. Till the time of issuance of sale certificate and delivery of possession, the Authorized Officer is like a court receiver and can take symbolic possession. Where he finds that third party interest is likely to be created overnight, he can take actual possession and take steps which he thinks fit proper to preserve the secured asset.²¹
21. In absence of contract to the contrary, only the secured creditor is entitled to have the benefit of accession made to the property after the date of mortgage.²²
22. Banks and Financial Institutions are at liberty to proceed against any one of the items or all the items of properties secured and borrowers have no say over the matter.²³
23. Proceedings validly initiated in accordance with the Act after an account has been legitimately classified as an NPA can not be indirected by the contrivance of the borrower making payments for bringing the account out of NPA classification as this would amount to frustration of the purpose of the Act.²⁴
24. There is no obligation on the secured creditor to pay interest on excess amount refunded after sale.²⁵
25. Secured Creditor standing outside Winding Up Proceedings and seeking to enforce security interest need not take permission of Company Court but is required to intimate decision to the Official Liquidator.²⁶
26. Secured Creditor can directly proceed against guarantors instead of proceeding first against borrower and can sell pledged goods in custody without first taking any action under 13 (4) (a) to 13 (4)(d).²⁷
27. Secured Creditor has the option of proceeding against guarantors without taking any measures against borrower.²⁸
28. Without any special consideration to the language of SARFAESI Act 2002- the liability of the guarantor is immediate and coextensive.²⁹

¹⁵ M/s Lakshmi Shankar Mills (P) Ltd. v. The Authorised Officer (2008) 85SCL 421 (Mad HC DB)

¹⁶ Mr. K. J. Doraiswamy v. The Asst. General Manager (2007) 136 Comp. Cas. 568 (Mad)

¹⁷ Ujjal Kumar Das & another v. State Bank of India & Others MANU/WB/0093/2013

¹⁸ K. Chidambaram Manickam v. Shakeena III (2008) BC6 (D.B.)

¹⁹ S. Anilkumar v. Catholic Syrian Bank Limited AIR 2013 Kerla 160

²⁰ Canara Bank v. Paleo Recycle Industries Limited AIR 2013 Gujrat 50

²¹ M/s Transcore v. Union of India and another AIR 2007 SC 712.

²² M.K. Rameshkumar v. Asset Reconstruction Co. India Limited IV (2007) BC 75 (DRAT)

²³ Ashok Sharda v. SIDBI (2007) 5 ALD 866 DB

²⁴ Chembeti Bramhiah Chowdhary v. State Bank of Hyderabad & Another IV (2010) BC218 (AP) (DB)

²⁵ HPSFC v. Prem Nath Nanda 2000 AIR SCW 3799

²⁶ The Akola Oil Industries v. State Bank of India (2006) 66 SCL 147 (Bom HC DB)

²⁷ United Bank of India v. Satyawati Tondon & others (2010) 8 SCC 110

²⁸ S.K. Agarwal v. Oriental Bank of Commerce and others (2005) 128 Comp. cas. 926

²⁹ Pramod Kumar and another v. Punjab National Bank & another AIR 2005 All 20

29. SARFAESI Act 2002 operates as an attachment / injunction restraining the borrower from disposing of secured asset and any tenancy created after the creation of security interest by mortgage would not be binding on banks and financial institutions and such tenancy would stand terminated once action under 13(4) has been taken by Banks & Financial Institutions.³⁰
30. If property is mortgaged to a Bank and thereafter an agreement for sale is entered into and possession is transferred by mortgagor to a third party, proposed purchaser would not be entitled to have protection under section 53A of Transfer of Property Act against mortgagee of property when it is sought to be enforced under the Act.³¹
31. If borrower has inducted somebody overnight to defeat the rights of bankers-SARFAESI can be invoked to take possession.³²
32. Leave and license agreement subsequent to equitable mortgage will not bind the bank so as to restrain it from taking action under 13(4).³³
33. SARFAESI Act 2002 operates as an attachment / injunction restraining the borrower from disposing of secured asset and any tenancy created after the creation of security interest by mortgage would not be binding on banks and financial institutions and such tenancy would stand terminated once action under 13(4) has been taken by Banks & Financial Institutions.³⁴
34. Supreme Court held that in case of the mortgage created whereby parties themselves understood that the lands in question is not intended to be used for agricultural purpose, having regard to the use to which such lands were put and the purpose of such use, the land indeed is not agricultural and will not be saved by the bar created under Section 31(I) of the Act. In other words – security interest in agricultural land may also be enforced on the basis of usage as non-agriculture although the land is agricultural as per public record.³⁵

I. SECTION 14-

35. Possession can be actual or symbolic.³⁶
36. It is not necessary that before applying to

magistrate for assistance in taking possession creditors should first try to take measures under 13 (4).³⁷

37. Magistrate under section 14 is required to assist creditors. He can not ask police to make enquiries.³⁸
38. The purpose of section 14 is to supplement and complement section 13 and magistrate is not required to issue notice to borrower.³⁹
39. Kerala High Court held that No power, jurisdiction competence or expertise is vested with the magistrate to deal with any claim as to the nature of property or merits or demerits with regard to other aspects of loan transactions.⁴⁰
40. DM / CMM can not adjudicate any dispute as to whether the land is agricultural or nonagricultural. District Magistrate also cannot entertain any dispute as to jurisdiction of secured asset.⁴¹
41. In the guise of acting under section 14- CMM/DM can not be permitted to usurp statutory powers vested in the tribunal.⁴²
42. Secured creditor after effecting transfer of the property is duty bound to give de-facto possession to the transferee and therefore even after effecting transfer, may apply to DM/CMM for taking possession and its delivery to the transferee.⁴³

³⁰ Shree Lakshmi Products v. SBI (2007) 78 SCL

³¹ Kundanben Jayantilal Sanghavi v. State Bank of Sourashtra (2005)126Comp.Cas.666

³² Hutchisson Essar South Limited v. Union Bank of India AIR 2008 Kar 14

³³ MTV Networks (India) Private Limited v. Oriental Bank of Commerce IV (2005) BC 215 (DRAT-DRT)

³⁴ Shree Lakshmi Products v. SBI (2007) 78 SCL

³⁵ ITC Limited v. Blue Coast Hotels Ltd., 2018(4) SCALE 628

³⁶ M/s Transcore v. Union of India and another (2008)1SCC125

³⁷ Standard Chartered Bank v. Noble Kumar (2013) 9 SCC 620

³⁸ Citibank v. Sudeep Singh and another (2005)57 SCL 1(Kar HC)

³⁹ Punjab and Sind Bank v. Gemini

⁴⁰ Fasions(P)Ltd.(2007)78SCL422 (Kar HC)

⁴¹ Ayishumma v. Hassan IV(2009)BC214

⁴² Bank of India v. Pankaj Dilipbhai Hemmani & others AIR 2007 Guj 201

⁴³ Kottakal Cooperative Urban Bank Limited v. Balkrishnan IV (2008)BC480

43. Karnataka High Court held that District Magistrate can not simply assign the job of repossession of asset to the police after issuing notice to the parties, Delegation is not warranted under section 14.⁴⁴
44. Petition under section 482 challenging the proceedings under section 14 of SARFAESI Act 2002 is not maintainable.⁴⁵
45. Madras High Court held that since procedures contained in section 13 are exhausted – no adjudication or enquiry is needed under section 14.⁴⁶
46. Bombay High Court held that since requirement of natural justice has been expressly provided under section 13- no further notice under section 14 is necessary.⁴⁷
47. CMM / DM cannot adjudicate on any issue. He must only assist secured creditor in taking possession of property and forward related documents of property.⁴⁸
48. Magistrate in taking action under section 14 is not required to issue notice to Borrower. Bombay High Court laid down⁴⁹ guidelines for exercise of powers by magistrate under section 14 as under-
- The bank or financial institution shall, before making an application under section 14, verify and confirm that notice under section 13(2) is given and that the secured asset falls within the jurisdiction of CMM / DM before whom application under section 14 is made. The bank and financial institution shall also consider before approaching CMM / DM for an order under section 14 of the NPA Act, whether section 31 of the NPA Act excludes the application of sections 13 and 14 thereof to the case on hand.
 - CMM/DM acting under section 14 is not required to give notice either to the borrower or to the 3rd party.
 - Magistrate has to only verify from the bank or financial institution whether notice under section 13(2) is given or not and whether the

secured assets fall within his jurisdiction. There is no adjudication of any kind at that stage.

- It is only if the above conditions are not fulfilled that the CMM / DM can refuse to pass an order under section 14 by recording that the above conditions are not fulfilled. If these two conditions are fulfilled, he cannot refuse to pass an order under sec. 14.
- Remedy provided under section 17 is available to the borrower as well as the third party.
- Remedy provided under section 17 is an efficacious alternative remedy available to the third party as well as to the borrower where all grievances can be raised.
- In view of the fact that efficacious alternative remedy is available to the borrower as well as to the third party, ordinarily, writ petition under Articles 226 and 227 of the Constitution of India should not be entertained.
- In exceptional cases of gravest injustice, a writ petition could be entertained by this court.
- Great care and caution must be exercised while entertaining a writ petition because in a given case it may result in frustrating the object of the SARFAESI Act 2002.
- Even if a writ petition is entertained, as far as possible, the parties should be relegated to the remedy provided under section 17 before the DRT by passing an interim order which will protect the secured assets. Adjudication and final order should be left to the DRT as far as possible.”

⁴⁴Citibank Bangalore v. Sudeep Singh IV (2004)BC529

⁴⁵Radhakrishnan v. State of Kerala III (2009) BC 343 (DB)

⁴⁶ SBI v. Kathikai Tea Plantations IV (2009)BC674

⁴⁷Prashant Kushte v. State of Maharashtra III (2007) BC 417

⁴⁸Ramdas Agarwal v. Collector (DM) District Drug & Another II (2011)BC227

⁴⁹ Tradewell, A Proprietorship firm v. Indian Bank (2008)81 SCL 173(Bom HC)

49. In exercise of powers under section 14, Magistrate has to only ensure that notice under section 13 (2) is given and the secured asset falls within his jurisdiction.⁵⁰
50. Functions of Chief Metropolitan Magistrate under section 14 of the Act have to be exercised by Chief Metropolitan Magistrate alone and he can not delegate the functions to any subordinate officer. Such order of delegation is liable to be set aside as *ultra vires*.⁵¹
51. District Magistrate is bound to assist the secured creditor in taking possession of secured assets and documents relating to it. Rejection by District Magistrate amounts to failure of statutory duties.⁵²
52. District Magistrate is not required to give opportunity of being heard to the borrower and secured creditor can make application to District Magistrate for police assistance.⁵³
53. Although orders under section 14 are final and as remedy in appeal under section 17 is available writ petition for setting aside orders under section 14 cannot be entertained.⁵⁴
54. CMM / DM is bound to assist secured creditor in taking possession but is not empowered to decide the legality or propriety of any action taken under 13(4).⁵⁵
55. S.14 of SARFAESI Act is constitutionally valid. Merely because adjudicatory mechanism is not contemplated under section 14 does not render Article 14 unconstitutional. DM / CMM must verify existence of facts as per affidavit produced by the secured creditor.⁵⁶
56. Magistrate under section 14 can only consider whether property is identifiable and whether notice under section 13(2) is given.⁵⁷
- III. SECTION 17 :**
57. Appeal under section 17 can be filed by Borrower only after some measures under 13 (4) are taken by secured creditor and not against any proposed measure in anticipation.
58. Remedy against 13 (4) measures for the borrowers is application to DRT under section 17 and not by way of writ petition to High Courts.
59. Writ petition is not maintainable against any

measure of section 13 as alternative and equally efficacious remedy by way of application to DRT is available under section 17.

60. Writ petition is not maintainable for action taken under section 14 as remedy by way of application under section 17 is available.. Writ jurisdiction can not be invoked to set aside order under section 14. It can be done only sparingly and exceptionally

IV. SECTION 18 :

61. 50% predeposit requirement under section 18 is constitutionally valid, however DRT may reduce it to 25%.⁶²
62. Appellate Tribunal should decide finally in reasonable time.⁶³
63. All the alternatives available to the borrower must be exhausted before the High Courts can interfere with the debt recovery proceedings.⁶⁴
64. The appellant cannot question the agreed rate of interest when he signed the agreement with open eyes and agreed to abide by the terms and conditions of loan documents. Doctrine of unconscionable contract cannot be invoked for frustrating the action initiated by the bank for recovery of its dues.⁶⁵
65. 50% Pre-deposit requirement under section 18 is constitutionally valid, however DRT may reduce it to 25%.

⁵⁰ Mohd. Ashraf v. Union of India II (2009) BC 612 (DB)

⁵⁸ Vijay Laghu Udyog v. Punjab National Bank (2004) 53 SCL 275 (All HC DB)

⁵⁹ M/s Digivision Electronics Ltd v. Indian Bank (2005) 63 SCL 714 (Mad HC DB)

⁶⁰ Smt. Krishna Kumari Talwar v. DRT (2004) 54 SCL 131 (All HC)

⁶¹ Kanaiyalal Lalchand Sachdewa & others v. State of Maharashtra & others (2011) 2 SCC 782

⁶² Creative Home Fashions Limited v. Union of India & Others (2011) 106 SCL 343

⁶³ M/S Gulshan Rai Jain v. Debts Recovery Appellate Tribunal Allahabad and others (2012) 111 SCL 776

⁶⁴ United Bank of India v. Satyawati Tondon & others (2010) 8 SCC 110

⁶⁵ India Bank v. Blue Jagers Estates Limited and others 2010 (2) DRTC 305 SC

⁶⁶ Creative Home Fashions Limited v. Union of India & Others (2011) 106 SCL 343

V. SECTION 26 E:

66. State Tax dues can have priority over unsecured creditors but can have no priority over secured creditors.⁶⁷

VI. SECTION 34 :

67. Even before Transcore judgment- Gujarat High Court had held that remedy under securitization Act is an alternative remedy and borrower can not find fault with the bank pursuing other available remedies.⁶⁸

68. Even before Transcore judgment- Kerala High Court held that procedure under SARFAESI Act 2002 is an additional remedy and therefore could be pursued simultaneously with civil remedies.⁶⁹

69. Even before Transcore judgment - Madras High Court had held that Remedy under section 13 of SARFAESI Act 2002 is an additional remedy and therefore Bank can take action under section 13 even when civil suit is pending in civil court.⁷⁰

70. Jurisdiction of Company Court or Civil Court is ousted and only the DRT is competent to decide the legality of sale of secured asset.⁷¹

71. Civil Court has no jurisdiction in respect of any matter in respect of which no action under SARFAESI Act 2002 is yet taken but which may be taken in future. Merely because action is not taken yet is not a ground for civil court to exercise jurisdiction.⁷²

72. Civil Suit by a tenant for injunction for restraining Bank / Financial institution from enforcing right under 13(4) is not maintainable as jurisdiction of civil court is ousted under section 34. The remedy for such tenant is to approach Debt Recovery Tribunal under section 17 of the Act.⁷³

VII. SECTION 35 :

73. Provisions of State Sales Tax Act are contrary to Section 35 of SARFAESI Act and ultravires the Constitution.⁷⁴

74. SARFAESI Act 2002 overrides SICA 1985 and therefore proceedings pending before BIFR abate as soon as action under SARFAESI is taken by secured creditors.⁷⁵

75. SARFAESI Act 2002 does not come in conflict with the scheme of Winding Up and liquidation of company under Companies Act. The object of speedier recovery through enforcement of security interest without intervention of courts would be defeated if Official liquidator would intervene to enforce the provisions of Companies Act and monitors each step of enforcement of security interest. The Company Court must therefore allow the provisions of SARFAESI Act to be put in motion even if the winding up proceedings are pending.⁷⁸

VIII. SECTION 37 :

76. Secured Creditor standing outside Winding Up Proceedings and seeking to enforce security interest need not take permission of Company Court but is required to intimate decision to the Official Liquidator.⁷⁷

77. Contrary to Akola Oil case, Madras High court held that if proceedings under SARFAESI Act 2002 have not commenced but if winding up proceedings have commenced, secured creditors have to approach company court for realization of proceeds of secured assets.⁷⁸

⁶⁷Central Bank of India v. Asst. Commercial Tax Officer (2010)35 VST 175 (Mad HC DB)

⁶⁸Apex Electricals Limited v. ICICI Bank Limited (2003) 107 Com Cases 117 (Guj)

⁶⁹Abdul Azeez v. Punjab National Bank (2005) 64 SC 14 (Ker)

⁷⁰A. Venkatramani v. LIC Housing Finance Ltd. (2007) 78 SCL 222 (Mad HC)

⁷¹Indian Bank v. The Sub Registrar (2015) 131 SCL 485

⁷²Yuth Development Cooperative Bank Ltd. v. Balasaheb Dinkarrao Salokhe & others AIR 2008 Bom 167

⁷³M.G. Ashwatha Shastri v. Canara Bank AIR 2011 Kar. 138

⁷⁴Punjab National Bank v. State of H.P. & others (2008) 15 VST 365 (HP HC DB)

⁷⁵ICICI Bank limited v. S Kumars Nationwide limited (2016) 136 SCL 464

⁷⁶BPL Display devices Ltd. Re (2009) 150 Comp. Cases 280

⁷⁷The Akola Oil Industries v. State Bank of India (2006) 66 SCL 147 (Bom HC DB)

⁷⁸Asset Reconstruction v. Official Liquidator (2006) 72 SCL 18 (Mad HC DB)

3. Conclusion

From the analysis of consolidated principles evolved through judicial decisions since the enactment of SARFAESI Act 2002 till 2019, pertaining to all important sections of SARFAESI Act 2002 which confer both substantive and procedural rights to Creditors, it is crystal clear that SARFAESI Act 2002 has proved itself a potent weapon in the direction of reducing piled up NPAs and strengthening the Creditors Protection Regime in India.

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