IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

&

HON'BLE SHRI JUSTICE ALOK AWASTHI

WRIT APPEAL No. 2604 of 2026

M/S KAILASH SINGH JITENDRA SINGH BHILWARE THROUGH ITS PROPRETOR MR KAILASH SINGH BHILWARE AND OTHERS

Versus

PEGASUS ASSETS RECONSTRUCTION PRRIVATE LIMITED THROUGH AUTHORISED OFFICER AND OTHERS

Appearance:

Shri Anirudh Malpani - Advocate for the appellants.

Ms. Charu Nayak- Advocate for the respondent No.1.

Reserved on : 14.08.2026

Pronounced on : 16.09.2026

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This appeal having been heard and reserved for orders, coming on for pronouncement this day, the court passed the following:

JUDGEMENT

Per*: *Justice Subodh Abhyankar

1] This writ appeal has been filed by the appellants/borrowers under Section 2(i) of Uchcha Nyayalaya Khandpith Ko Appeal Adhiniyam, 2005 against the order passed by the Writ Court in W.P. No.23663/2026 dated 15.07.2026, preferred by the respondent No.1 Pegasus Assets Reconstruction Private Limited, whereby, the Writ Court has directed the Debts Recovery Tribunal (DRT) to proceed with S.A. No.772/2022 as expeditiously as possible, preferably within a period of three months from the date of receipt of certified copy of the order passed by the Writ Court.

2] In brief, the facts of the case are that admittedly, the appellants are the borrowers, as they had availed loan facility originally granted by

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the RBL Bank Limited and which was subsequently taken over by the respondent No.1 Pegasus Assets Reconstruction Private Limited. Admittedly, the recovery proceedings initiated by the respondent No.1 are challenged by the appellants under Section 17(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act') before the Debts Recovery Tribunal, Jabalpur, in which, according to the appellants, various legal issues are also raised by them, and while the said application is still pending, the respondent No.1 obtained an order dated 06.06.2023, under Section 14 of the SARFAESI Act from the District Magistrate, however, the DRT issued an interim order dated 05.07.2023, directing the appellants to deposit a sum of Rs.1,25,00,000/-, and the order passed by the District Magistrate was stayed till the disposal of the second appeal. Being aggrieved, the respondent No.1 preferred W.P. No.23663/2026, which was decided by the Writ Court vide its order dated 15.07.2026, and the Writ Court though refused to grant stay to the respondent No.1, directed the DRT to decide the case as expeditiously as possible, within a period of three months from the date of receipt of certified copy of the order.

3] Counsel for the appellant has submitted that the learned Judge of the Writ Court has exceeded its jurisdiction in granting the said relief, as the power to expedite the case vests with the DRAT only under Section 17(6) of the SARFAESI Act. Thus, it is submitted that the direction to expedite the case could not have been ordered by the Writ Court.

4] The prayer is vehemently opposed by the counsel for the respondent No.1 and it is submitted that an innocuous relief was sought by the respondent No.1, and no illegality or error has been committed by the Writ Court, as the Writ Court has also taken into account the fact that public money is also involved in the case, and apart from that, no prejudice would be caused to the appellants. In support of her

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submissions, counsel for the respondent No.1 has also relied upon the decision rendered by the Supreme Court in the case of ***Indian Overseas Bank Vs. M/s Radhey Infra Solutions (Pvt.) Ltd. & Ors.,*** passed in ***SLP (C) No.21255/2025*** dated ***07.10.2025.***

5] Heard counsel for the parties and perused the record.

6] From the record, we find that so far as the reliefs sought in the writ petition are concerned, the same read as under:-

> "It is therefore most respectfully prayed that this Hon'ble Court may kindly be pleased to:
> i) Issue an appropriate writ, order or direction, including a writ in the nature of mandamus, directing the learned Debt Recovery Tribunal, Jabalpur, to expeditiously hear and finally dispose of Securitisation Application No. 772/2022 pending before it within a time-bound period, as may be deemed fit by this Hon'ble Court;
> ii) In the alternative, and considering the continued non- functioning/non-availability of the Bench of the learned Debt Recovery Tribunal, Jabalpur, this Hon'ble Court may kindly be pleased to take up the matter and pass appropriate orders on merits in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India;
> iii) Vacate/stay the operation of interim protection granted in favour of the borrowers during pendency of the proceedings before the Debts Recovery Tribunal, Jabalpur.
> I iv) Pending final adjudication of S.A. No. 772/2022, permit the Petitioner to proceed further with measures under Section 13(4) of the SARFAESI Act, 2002, in accordance with law;
> v) Pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case in the interest of justice; and
> vi) Award costs of the present petition in favour of the Petitioner."
>
> ***(Emphasis Supplied)***

7] Whereas, the Writ Court has passed the order in the following manner:-

> "4. In the present matter also, looking to the prayers made, though there is no dispute about the ratio of judgments, however, considering the facts of the present case, more particularly, considering the nature of prayer, the only prayer pressed into service is a direction to the DRT to expedite the proceedings of S.A. No. 772/2022 pending before the DRT. It is informed that now the charge of DRT has been given to one of the DRT at Ahmedabad where the Presiding Officer is available and the matter can be heard and decided by the said officer.
>
> 5. Heard, learned counsel for the parties and perused the record.
>
> 6. Looking to the fact that huge public money is involved in the present petition, it is apposite to direct the DRT to expedite the proceedings of SARFAESI application pending adjudication which will

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not cause any prejudice to the rights of either of the party. Otherwise also, this Court with a view to do substantive justice may exercise power under Article 226 of the Constitution of India.

7. Accordingly, the present petition is disposed off with a direction to the DRT to proceed with S.A. No. 772/2022 , as expeditiously as possible, preferably within a period of three months from the date of receipt of certified copy of the order passed today.

8. With the aforesaid direction, petition stands disposed off. No other prayer is required to be considered as the same are not pressed by the learned counsel for petitioner."

8] Whereas, the relevant provisions of Section 17 of the SARFAESI Act, namely, Section 17(5) and 17(6) read as under:-

"Section 17 - Application against measures to recover secured debts:

(1) ……

(5) Any application made under sub-section (1) shall be dealt with by the Debts Recovery Tribunal as expeditiously as possible and disposed of within sixty days from the date of such application:

Provided that the Debts Recovery Tribunal may, from time to time, extend the said period for reasons to be recorded in writing, so, however, that the total period of pendency of the application with the Debts Recovery Tribunal, shall not exceed four months from the date of making of such application made under sub-section (1).

(6) If the application is not disposed of by the Debts Recovery Tribunal within the period of four months as specified in sub-section (5), any party to the application may make an application, in such form as may be prescribed, to the Appellate Tribunal for directing the Debts Recovery Tribunal for expeditious disposal of the application pending before the Debts Recovery Tribunal and the Appellate Tribunal may, on such application, make an order for expeditious disposal of the pending application by the Debts Recovery Tribunal.

....."

(Emphasis Supplied)

9] A perusal of the aforesaid Sub-Sections would reveal that the SARFAESI Act itself provides that an application under Sub-Section (1) of Section 17 is required to be decided within a period of sixty days from the date of such application, and even if it is extended for the reasons assigned therein, beyond the period of sixty days, it shall not exceed beyond a period of four months from the date of making such application, whereas, according to Sub-Section (6) of Section 17, it is provided that even if the case could not be concluded within further four

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Signing time: 17-09-2026 10:37:10

months, any party to the application under Section 17(1) can make an application to the Appellate Tribunal, *in such form as may be prescribed,* for directing the Debts Recovery Tribunal for expeditious disposal of the application pending before the Debts Recovery Tribunal, and the Appellate Tribunal may, on such an application, make an order for expeditious disposal of the pending application by the Debts Recovery Tribunal.

10] Thus, it is apparent from the aforesaid provisions that a specific provision/mechanism has been provided for expeditious disposal of the application filed under Section 17(1) of the SARFAESI Act, and the remedy is also provided if the case is not decided within the time prescribed *i.e.*,four months, however, without taking recourse of the said remedy as provided under Section 17(6), the respondent filed the petition seeking the relief as aforesaid.

11] On perusal of the memo of petition, it is found that in para 4 of the petition, which refers to details of remedies exhausted, it is averred as under:-

> **"4. <u>DETAILS OF REMEDIES EXHAUSTED:</u>**
>
> That, petitioner declares that he has availed all the statutory and other remedies available to it.
> That the Petitioner is not challenging the conditional interim order passed by the learned DRT and therefore the remedy under Section 18 of the SARFAESI Act is not an efficacious remedy for the present grievance. The limited grievance in the present petition relates to continued pendency and non-final adjudication of S.A. No. 772/2022 despite repeated listings before the learned DRT."

12] It is apparent from the aforesaid para also that the petitioner deliberately did not mention it in the said para that it has a remedy under Section 17(6) of the Act, which was specifically for the purposes of deciding an application under Section 17(1) expeditiously. However, instead of resorting to the aforesaid remedy, the present petition was filed by the respondent No.1 for the reasons best known to it.

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13] We are of the considered opinion that the Appellate Tribunal of the Debts Recovery Tribunal is best equipped to decide such an application, as the intricacies of such applications under Section 17(1) can only be taken note of by the Appellate Tribunal while directing or refusing to direct the Debts Recovery Tribunal to decide the case expeditiously, and such expertise is apparently not available to a Judge of the High Court, and that is why Sub-Section (6) of Section 17 has been enacted, *i.e.*, to ensure that any party to an application who is not satisfied with the progress of the case, can make an application before the Appellate Tribunal, *in such form as may be prescribed* for expeditious disposal of the case. Thus, we are of the considered opinion that when even the format is provided by the SARFAESI Act to apply for the expeditious disposal of the case, the writ petition could not have been filed directly before this Court circumventing the aforesaid legal provision.

14] So far as the observations made by the Writ Court regarding the involvement of public money is concerned, though we agree with the concern raised by the Writ Court but we are also of the considered opinion that in each and every case pending in the DRT, public money is involved in one way or the other, and thus, merely on the asking of one of the parties to the litigation, we cannot direct the DRT to decide any particular case expeditiously, bypassing the provision of Section 17(6) of the SARFAESI Act.

15] So far as the decision relied upon by the counsel for the respondent No.1 in the case of ***M/s Radhey Infra Solutions (Pvt.) Ltd. & Ors. (Supra)*** is concerned, we find that the aforesaid judgement is distinguishable, as it deals with Section 17(5) of the SARFAESI Act only. The relevant paras of the same read as under:-

> 5. We may only take note of Section 17(5) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, which reads as under:

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Signing time: 17-09-2026 10:37:10

xxx xxx xxx

> (5) Any application made under sub-section (1) shall be dealt with by the Debts Recovery Tribunal as expeditiously as possible and disposed of within sixty days from the date of such application:
>
> Provided that the Debts Recovery Tribunal may, from time to time, extend the said period for reasons to be recorded in writing, so, however, that the total period of pendency of the application with the Debts Recovery Tribunal, shall not exceed four months from the date of making of such application made under subsection(1).
>
> xxx xxx xxx
>
> 6. Once the statute itself mandates that the DRT should dispose of the matter within the stipulated time, it is incumbent upon the DRT, Dehradun, to abide thereby. Further, in the event it fails to do so, the proviso to Section 17(5) ordains that reasons need to be recorded. We find from the orders passed by the DRT, Dehradun, that this statutory direction has also not been respected.
>
> 7. We, accordingly, dispose of the appeal directing the DRT, Dehradun, to take note of the statutory mandate under Section 17(5) of the SARFAESI Act and act accordingly without further delay.
>
> 8. Pending application(s), if any, shall stand disposed of.
>
> ***(Emphasis Supplied)***

16] A perusal of the aforesaid order would clearly reveal that the Supreme Court has only taken note of Section 17(5) of the SARFAESI Act, and there are no observations regarding availability of appeal under Section 17(6), and in fact, it appears that the applicability of Section 17(6) was not even raised before the Supreme Court, thus, the aforesaid case is of no avail to the respondent No.1.

17] Accordingly, the writ appeal stands ***allowed*** and the impugned order dated 15.07.2026 is hereby set aside, with liberty to the respondent No.1 to take recourse of the remedy as is available to it under Section 17(6) of the SARFAESI Act.

18] With the aforesaid, appeal stands ***allowed*** and ***disposed of***.

19] It is made clear that this Court has not reflected upon the merits of the matter.

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(SUBODH ABHYANKAR)
JUDGE

(ALOK AWASTHI)
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