

A.F.R.



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

MATTERS UNDER ARTICLE 227 No. - 24 of 2026

M/S Tandon and Company Thru. Proprietor Ravi Tandon and others
.....Petitioner(s)

Versus

Debt. Recovery Tribunal Lko. Thru. Presiding Officer and another
.....Respondent(s)

Counsel for Petitioner(s) : Gautam Sadana, Devesh Srivastava
Counsel for Respondent(s) : Manu Dixit

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Devesh Srivastava and Sri Gautam Sadana, the learned counsel for the petitioners, Sri Manu Dixit, the learned counsel for the opposite party no.2 - HDFC Bank Ltd. and perused the records.
2. The learned counsel for the petitioners have stated that they have erroneously impleaded the DRT as opposite party no.1 to the petition. On their oral request they are permitted to strike out the name of Tribunal from the array of opposite parties in the memo of petition forthwith.
3. By means of the instant petition filed under Article 227 of the Constitution of India the petitioners have challenged the validity of an order dated 10.11.2025, passed by the Debts Recovery Tribunal (hereinafter referred to as 'the DRT') in Securitisation Application No.936 of 2024, whereby the DRT has rejected the contention of the petitioner about illegality of an order dated 28.06.2025, passed by the District Magistrate,

Lucknow in Case No.1414 of 2025, under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (hereinafter referred to as the SARFAESI Act) correcting a typographical error in the previous order dated 08.05.2025 regarding the date of possession notice.

4. The learned counsel for the opposite party no.2 has raised a preliminary objection that the petition filed under Article 227 of the Constitution of India challenging the order passed by the DRT is not maintainable in view of availability of the statutory remedy of appeal under Section 18 of the SARFAESI Act. The learned counsel for the opposite party-Bank has relied upon judgments of Hon'ble Supreme Court in the cases of **Varimadugu Obi Reddy Vs. B. Sreenivasulu and others**: (2023) 2 SCC 168, **PHR Invent Educational Society Vs. UCO Bank and others**: (2024) 6 SCC 579 and **Balkrishna Rama Tarle v. Phoenix ARC (P) Ltd.**: (2023) 1 SCC 662.
5. Per contra, the learned counsel for the petitioner has placed reliance upon the decisions of Hon'ble Supreme Court in the cases of **S. N. Mukherjee Vs. Union of India**: (1990) 4 SCC 594 and **M/s Kranti Associates Pvt. Ltd. and another Vs. Sh. Masood Ahmed Khan and others**: (2010) 9 SCC 496.
6. In **Varimadugu Obi Reddy v. B. Sreenivasulu**: (2023) 2 SCC 168 the securitisation application had been dismissed by the DRT, the dismissal order was not challenged and it became final. After taking possession of the mortgaged property, the Bank issued a notice to the borrowers calling upon them to repay the outstanding amount and thereafter it issued e-auction sale notice dated 25.02.2015 fixing the date of auction of the scheduled property on 28.03.2015. That borrowers challenged the e-auction sale notice before the DRT. The DRT passed an interim order dated 26.03.2015, directing the Bank to proceed with the auction-sale of the secured asset with a further direction not to issue the sale certificate provided the borrowers deposit Rs 6 lakhs within 15 days

from the date of the said order, i.e., by 09.04.2015. It was made clear that in the event of the respondent borrowers fail to deposit the said amount, the respondent Bank will be at liberty to issue the sale certificate in favour of the highest bidder. The borrowers failed to deposit Rs 6 lakhs by 09.04.2015 and they filed an application on 09.04.2015 seeking extension of further 15 days' time from 10.04.2015 to deposit the amount and the Tribunal passed an order dated 17.04.2015 granting extension of 15 days' time to deposit Rs 6 lakhs and directed the Bank and the borrowers to maintain status quo. Since the dispute was ongoing before the Tribunal and the borrowers had failed to comply with the interim order dated 26.03.2015 to deposit Rs 6 lakhs within 15 days from the date of passing of the order by 10.04.2015, the Bank proceeded with the auction-sale in terms of liberty granted by the Tribunal. The auction purchaser had deposited Rs.5,54,000/- as the earnest money and he further deposited 25% amount after being declared the highest bidder. The purchaser deposited the balance 75% amount on 15.04.2015 and a sale certificate was issued in his favour. The auction sale had already been finalised and the sale certificate had already been issued when the Tribunal passed the order dated 17.04.2015 granting extension of 15 days' time to the borrowers to deposit Rs 6 lakhs.

7. The borrowers had raised two preliminary objections before the DRT. The first was that there was an error in the description of mortgaged property in the e-auction sale notice dated 25.02.2015 as the secured asset was property bearing "Door No. 12-3-39, 3rd Cross, Sai Nagar, Ananthapuramu" while in the e-auction sale notice, the property was described as Door No. "12-3-393" instead of "12-3-39" and this, according to the borrowers was the manifest error committed by the respondent Bank and because of which the property could not fetch the value which it ought to have fetched in the course of business. The DRT held that in the given facts and circumstances, the typographical inadvertent human error in reference to door number of the property may not leave ambiguity with regard to mortgaged property put to auction

and this typographical error is inconsequential and does not vitiate the e-auction sale proceedings.

8. The other objection was that in terms of Rule 9(4) of the 2002 Rules, the auction price was to be deposited by the auction-purchaser within 15 days which expired on 10.04.2015 but it was deposited on 15.04.2015 which is in clear breach of Rule 9(4) of the 2002 Rules, in consequence thereof, the e-auction sale notice and all further proceedings initiated pursuant thereto deserve to be declared null and void. The DRT held that since the borrowers had failed to deposit Rs 6 lakhs in the extended period granted by the order dated 17.04.2015, the Tribunal granted further time to the borrowers till 10.05.2015, but by that time the auction proceedings had been finalised, the sale certificate had been duly registered. The Debts Recovery Tribunal dismissed the application by an order dated 01.08.2019. The Order of the DRT was set aside by the High Court. Setting aside the order of the High Court, the Hon'ble Supreme Court held that: -

“36. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of pre-deposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated under 2nd proviso to Section 18 of the 2002 Act.”

9. In **PHR Invent Educational Society v. UCO Bank**: (2024) 6 SCC 579, the Hon'ble Supreme Court followed the law laid down in **Varimadugu Obi Reddy v. B. Sreenivasulu** (Supra) and also followed some other judgments. The relevant passage from the aforesaid judgment is being quoted below: -

“29. Recently, in *Celir LLP [Celir LLP v. Bafna Motors (Mumbai) (P Ltd.]: (2024) 2 SCC 1]*, after surveying various judgments of this Court, the Court observed thus:

*“101. More than a decade back, this Court had expressed serious concern despite its repeated pronouncements in regard to the High Courts ignoring the availability of statutory remedies under the RDBFI Act and the SARFAESI Act and exercise of jurisdiction under Article 226 of the Constitution. Even after the decision of this Court in *Satyawati Tondon [United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110]*, it appears that the High Courts have continued to exercise its writ jurisdiction under Article 226 ignoring the statutory remedies under the RDBFI Act and the SARFAESI Act.”*

30. It can thus be seen that it is more than a settled legal position of law that in such matters, the High Court should not entertain a petition under Article 226 of the Constitution particularly when an alternative statutory remedy is available.

* * *

34. In our view, the High Court ought to have taken into consideration that the confirmed auction-sale could have been interfered with only when there was a fraud or collusion. The present case was not a case of fraud or collusion. The effect of the order of the High Court would be again reopening the issues which have achieved finality.

* * *

37. It could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:

- (i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;**
- (ii) it has acted in defiance of the fundamental principles of judicial procedure;**
- (iii) it has resorted to invoke the provisions which are repealed; and**
- (iv) when an order has been passed in total violation of the principles of natural justice.**

38. It has however been clarified that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance.”

(Emphasis added)

10. It has clearly been held in the aforesaid judgment that although the High Court should not ordinarily entertain a petition when the petitioner has got an alternative remedy of filing appeal under Section 18 of the SARFAESI Act, the bar of alternative remedy will not be there in case there has been a violation of the principles of natural justice.

11. The learned Counsel for the petitioners has submitted that the District Magistrate has reviewed his earlier order whereas the statute does not confer the power of review upon him and, therefore, the District Magistrate has not acted in accordance with the provisions of the enactment in question. The DRT has rejected the petitioner's application for interim relief for staying the impugned order passed by the District Magistrate, without assigning any reason. He has submitted that an order passed without assigning any reason is violates of principles of natural justice.

12. The learned counsel for the petitioners has relied upon a decision rendered by a Division Bench of this Court in the case of **Kotak Mahindra Bank Ltd. Vs. State of U.P.**: 2016 SCC OnLine All 3854, wherein it has been held that the District Magistrate has no power to review an order passed under Section 14 of the SARFAESI Act. He has submitted that the order dated 28.06.2025 which changes the date of possession notice in the earlier order dated 08.05.2025, has caused substantial effect on the rights and interests of the petitioners and, therefore, it amounts to a review of the order.

13. In the order dated 08.05.2025, the District Magistrate has recorded in the opening paragraph that the HDFC Bank Ltd. had sent a demand notice to the petitioners under Section 13 (2) of the SARFAESI Act on 15.07.2024. After expiry of the notice period a possession notice dated 14.11.2024 was sent. Information was published in a daily newspaper also but the borrower did not pay the due amount to the bank and did not hand over possession of the property also. However, at another place it has been mentioned that that demand notice under Section 13 (2)

the SARFAESI Act was issued on 15.07.2024 and the possession notice under Section 13 (4) of the SARFAESI Act was issued on 13.09.2024.

14. The respondent bank filed an application for correction of the aforesaid typographical error. The District Magistrate has allowed the application for correction of the error by means of the impugned order dated 28.06.2025 stating that the correction of typographical error is necessary in the interest of justice.

15. The correction of a typographical error regarding the date of possession notice under Section 13(4) of the SARFAESI Act is not a review, more particularly when at another place in the order dated 08.05.2025, the correct date of possession notice under Section 13(4) of the SARFAESI Act was mentioned as 14.11.2024. The correction of typographical error of date of possession notice under Section 13 (4) of the SARFAESI Act cannot be said to be a review of the order passed under Section 14 of the SARFAESI Act. There is no provision in any statute prohibiting exercise of powers for correction of typographical errors in the orders passed under Section 14 of the SARFAESI Act and the order regarding correction of typographical error cannot be said to be passed without jurisdiction.

16. The learned Counsel for the petitioner has placed before this Court only a part of a sentence from the judgment in the case of **Kotak Mahindra Bank Ltd. v. State of U.P.** (Supra), which says "*the District Magistrate has absolutely no jurisdiction to review his order*", without reading the entire judgment. In that case, M/s. Chopra Fabricators and Manufacturers Pvt. Ltd. had taken a loan from the State Bank of India and had committed default in its re-payment. State Bank of India instituted recovery proceedings, which were decided by the DRT, Allahabad in favour of the bank *vide* order dated 12.05.2006. Appeal filed by the borrowers against the said order of the DRT was also dismissed. State Bank of India assigned the loan in favour of Kotak Mahindra Bank Ltd., which initiated recovery proceedings under the

Act, 2002. The borrowers in the meantime after getting free-hold rights over the secured asset, transferred some portion of the assets to some private persons. Kotak Mahindra Bank Ltd. filed an application under section 14 of the before the District Magistrate, which was allowed by means of an order dated 24.06.2013 and the Bank took possession of the secured asset on 30.12.2013. After possession of the property was taken, a notice for auction sale of the secured assets was published in various newspapers on 11.01.2014. The borrower and guarantor filed Securitisation Application No. 218 of 2013 before the DRT, Allahabad on 30.01.2014. This application was dismissed by the DRT on 30.01.2014 after recording that the borrowers had not approached the Tribunal with clean hands and they had sold the mortgaged property fraudulently. Instead of challenging the order of DRT by filing an appeal before the DRAT, the borrower filed a recall application before the District Magistrate. The District Magistrate re-appreciated the contention of the parties and recalled the order dated 24.06.2013 *vide* his order dated 30.06.2016. Taking benefit of the order of the District Magistrate, the borrower forcefully broke open the locks of the Bank put over the secured assets. It was in the aforesaid factual background, that this Court held that: -

“13. Be that as it may, we are of the considered opinion that the District Magistrate has absolutely no jurisdiction to review his order dated 24.6.2013 passed under the Act, 2002 specifically when the order was subjected to challenge before the Debt Recovery Tribunal and such application was dismissed by a reasoned order holding therein that the borrower had not approached the Tribunal with clean hands. If they were not satisfied they had the remedy of approaching the Appellate Tribunal under section 18 of the Act, 2002.”

17. This judgment was passed keeping in view the aforesaid peculiar facts and circumstances of the case and it does not lay down the principle of law that the District Magistrate has no power to correct a typographical error in his order passed under Section 14 of the SARFAESI Act.

18. In **P. S. Sathappan v. Andhra Bank Ltd.**: (2004) 11 SCC 672, a Constitution Bench of the Hon'ble Supreme Court consisting of five Hon'ble Judges held that: -

“145. A decision is an authority for the questions of law determined by it. While applying the ratio, the court may not pick out a word or a sentence from the judgment divorced from the context in which the said question arose for consideration. A judgment, as is well known, must be read in its entirety and the observations made therein should receive consideration in the light of the questions raised before it.
[See Haryana Financial Corpn. v. Jagdamba Oil Mills (2002) 3 SCC 496, Union of India v. Dhanwanti Devi (1996) 6 SCC 44, Nalini Mahajan (Dr.) v. Director of Income Tax (Investigation) (2002) 257 ITR 123 (Del), State of U.P. v. Synthetics and Chemicals Ltd. (1991) 4 SCC 139, A-One Granites v. State of U.P. (2001) 3 SCC 537 and Bhavnagar University v. Palitana Sugar Mill (P) Ltd. (2003) 2 SCC 111.

146. Although decisions are galore on this point, we may refer to a recent one in State of Gujarat v. Akhil Gujarat Pravasi V.S. Mahamandal (2004) 5 SCC 155 wherein this Court held:

“It is trite that any observation made during the course of reasoning in a judgment should not be read divorced from the context in which it was used.”

(Emphasis added)

19. Therefore, the ratio laid down in the judgment in the case of **Kotak Mahindra Bank Ltd. v. State of U.P.** (Supra) will not apply to the facts present case.

20. In **Balkrishna Rama Tarle v. Phoenix ARC (P) Ltd.**: (Supra), the Hon'ble Supreme Court held that: -

“18. Thus, the powers exercisable by CMM/DM under Section 14 of the SARFAESI Act are ministerial steps and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. In that view of the matter once all the requirements under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/ or with the help of an advocate appointed as Advocate Commissioner.

At that stage, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets and the aggrieved party to be relegated to raise objections in the proceedings under Section 17 of the SARFAESI Act, before the Debts Recovery Tribunal."

21. As the order under Section 14 of the Act is passed in exercise of powers of ministerial nature and the order dated 28.06.2025 has not been passed by the District Magistrate in exercise judicial powers, the District Magistrate certainly has the power to correct ministerial and typographical errors in the order passed in exercise of ministerial powers and correction of such an error cannot be said to be a review of the order dated 08.05.2025 since it doesn't change the substance of the order. Therefore, the order dated 28.06.2025 passed by the District Magistrate cannot be said to have been passed without jurisdiction.
22. The learned Counsel for the petitioner has submitted that alteration of the date of possession notice from 13.09.2024 to 14.11.2024 substantially affects the rights of the petitioner and it can't be said that this correction does not alter the order dated 08.05.2025 substantially. This argument also has no force, as a mere correction of a typographical error regarding the date of possession notice in an order, more particularly, when this date is mentioned correctly in the factual narration made in the earlier part of the same order, does not effect any substantial alteration in the order dated 08.05.2025 and it does not amount to a review of the order. This correction does not affect any valuable legal rights of the petitioner. Even assuming that the correction affects valuable rights of the petitioner, since the correction does not alter the order dated 08.05.2025 substantially, its mere effect on the petitioner would not be decisive of the nature of the order so as to make the correction order an order of review.
23. The learned Counsel for the petitioner has submitted that impugned order dated 10.11.2025 passed by the DRT rejecting the petitioner's challenge made to the order dated 28.06.2025, does not

contain any reason and, therefore, it has been passed in violation of the principles of natural justice.

24. In **S.N. Mukherjee v. Union of India**: (1990) 4 SCC 594, the Hon'ble Supreme Court held that: -

“39. The object underlying the rules of natural justice “is to prevent miscarriage of justice” and secure “fair play in action”. As pointed out earlier the requirement about recording of reasons for its decision by an administrative authority exercising quasi-judicial functions achieves this object by excluding chances of arbitrariness and ensuring a degree of fairness in the process of decision-making. Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework whereunder jurisdiction has been conferred on the administrative authority. With regard to the exercise of a particular power by an administrative authority including exercise of judicial or quasi-judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement. It may do so by making an express provision to that effect as those contained in the Administrative Procedure Act, 1946 of U.S.A. and the Administrative Decisions (Judicial Review) Act, 1977 of Australia whereby the orders passed by certain specified authorities are excluded from the ambit of the enactment. Such an exclusion can also arise by necessary implication from the nature of the subject matter, the scheme and the provisions of the enactment. The public interest underlying such a provision would outweigh the salutary purpose served by the requirement to record the reasons. The said requirement cannot, therefore, be insisted upon in such a case.

40. For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.”

25. In **Kranti Associates (P) Ltd. v. Masood Ahmed Khan**, (Supra) the Hon'ble Supreme Court examined verious precedents on the point and summarised the law as follows: -

“47. Summarising the above discussion, this Court holds:

- (a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.***
- (b) A quasi-judicial authority must record reasons in support of its conclusions.***
- (c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.***
- (d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.***
- (e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.***
- (f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.***
- (g) Reasons facilitate the process of judicial review by superior courts.***
- (h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.***
- (i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.***
- (j) Insistence on reason is a requirement for both judicial accountability and transparency.***
- (k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.***
- (l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.***
- (m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making***

not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37].)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

(Emphasis added)

26. The DRT has recorded in the impugned order that it has been specifically recorded in the order dated 26.08.2025 that a typing error was being rectified. The Magistrate has not modified / reviewed or recalled the earlier order dated 08.05.2025. The District Magistrate has corrected a typing error, which could have been done even without moving any application. This is the reason assigned for passing of the impugned order dated 10.11.2025 passed by the DRT and, therefore, it cannot be said that the order has been passed without assigning any reason and that the order is bad for this reason. The reasons assigned in the order dated 10.11.2025 are sufficient and those have already been affirmed in the earlier part of this order.

27. The learned counsel for the petitioners has further submitted that although the DRT has referred to the decisions relied upon by the petitioners in the impugned order, no reasoning has been given for non-applicability of the ratio laid down in those judgments. However, the learned Counsel for the petitioner has not placed those judgments before this Court. The judgments referred in the order dated 10.11.2025 passed by the DRT are Asset Reconstruction Co. (India) Ltd. v. State of U.P., 2018 SCC OnLine All 6494, so as to enable this Court to examine the applicability of those judgments.

28. Therefore, I find no force in the submissions of the learned Counsel for the petitioner that the Petition is maintainable in spite of the availability of statutory remedy of appeal as the order dated 28.06.2025 has been passed by the District Magistrate without jurisdiction and the DRT has rejected the challenge made to the order dated 28.06.2025 without assigning any reason. However, as while examining the merits of the aforesaid submission of the petitioner, this Court has already examined the merits of all the contentions of the learned Counsel for the petitioner, nothing is left to be decided by the Appellate Tribunal and no purpose will be served by relighting the petitioner to the remedy of appeal.

29. Accordingly, I find no error in the order dated 28.06.2025, passed by the District Magistrate correcting the typographical error in the order dated 08.05.2025, passed under Section 14 of the SARFAESI Act. The Debts Recovery Tribunal has not committed any error or illegality in declining to interfere in the order dated 28.06.2025, passed by the District Magistrate.

30. The petition lacks merit and the same is dismissed at the admission stage.

(Subhash Vidyarthi,J.)

January 16, 2026
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