



2026:AHC-LKO:29258-DB

A.F.R.

Reserved on :-13.03.2026
Delivered on :-24.04.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 420 of 2025

M/s Waheguru Projects Pvt. Ltd. Lko. Thru. its Auth.
Signatory Mr. Divya Ahuja

.....Appellant(s)

Versus

M/s Arora Auto Center Lko. Thru. its Partner Rishab
Chhabra and 12 others

.....Respondent(s)

Counsel for Appellant(s) : Sarvesh Kumar Tiwari,
Prashant Kumar, Sunil Kumar
Chaudhary
Counsel for : Aishvarya Mathur, Ashish
Respondent(s) : Chaturvedi, C.S.C., Puskar
Srivastava

Alongwith :

- Special Appeal No. 421 of 2025:**
M/s Waheguru Projects Private Ltd. Thru. its
Authorized Signatory Mr. Divya Ahuja
Versus
Bharat Petroleum Corporation Ltd. Thru. Territory
Manager Mr. Rajarshi Mukherjee and Ors.
- Special Appeal No. 422 of 2025:**
Phoenix Arc Private Ltd. Thru. Authorized Officer,
Vile Parle East, Mumbai

Versus

Bharat Petroleum Corporation Ltd. Mumbai Thru. its
Auth. Signatory Mr. Rajarshi Mukherje and 9 Ors.

Special Appeal No. 424 of 2025:

Phoenix Arc Private Limited Thru. its Authorized
Officer

3.

Versus

M/s Arora Auto Center Lucknow Thru. its Partner
Rishab Chhabra and 12 others

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE SYED QAMAR HASAN RIZVI, J.

(Per:-Rajan Roy, J.)

1. Heard Shri Sudeep Seth, learned Senior Advocate assisted by Shri Pushkar Srivastava, Shri Satendra Kumar Rai, Sri L.P. Mishra along with Sri Prashant Kumar, Sri Deepanshu Das & Sri Sarvesh Kumar Tiwari, Advocates appearing on behalf of the appellants, Shri Jaideep Narayan Mathur, learned Senior Advocate assisted by Shri Ashish Chaturvedi, appearing on behalf of Respondent-BPCL, Shri Dhruv Mathur, learned Senior Advocate assisted by Ms. Aishvarya Mathur for the respondent-M/s Arora Auto Centre, Sri Anurag Srivastava, learned counsel for the applicant-Smt. Krishna Devi seeking impleadment in Special Appeal No.422 of 2025 and Sri Nishant Shukla, learned Additional Chief Standing Counsel who appears on behalf of the State-respondents.

2. This is a bunch of special appeals wherein Special Appeal No.420 of 2025 by M/s Waheguru Projects Pvt. Ltd. Lko. and Special Appeal No.424 of 2025 by Phoenix Arc Private Limited have been filed against the interim order dated 28.11.2025 passed in Writ C No.11302 of 2025 (M/s Arora Auto Center & Others vs. State of U.P. & Others).

3. Special Appeal No.421 of 2025 by M/s Waheguru Projects Private Limited and Special Appeal No.422 of 2025 by Phoenix Arc Private Limited have been filed against the interim order dated 28.11.2025 passed in Writ C No.11298 of 2025 (BPCL vs. State of U.P. & Others).

4. Special Appeals No.422 of 2025 and 424 of 2025 have been filed by the financial institution/secured creditor whereas Special Appeals No.420 of 2025 and 421 of 2025 have been filed by the auction purchaser.

5. By means of the interim orders dated 28.11.2025, learned Single Judge exercising the powers under Article 226 of the Constitution of India, during pendency of securitization application in respect of the same matter, has ordered for restoration of possession of the secured asset namely immovable property bearing Khasra No.131

admeasuring 32879 square feet situated at Shekhpur Kasaila, Faizabad Road, Lucknow to the respondent-petitioner i.e Bharat Petroleum Corporation Limited (hereinafter referred to as 'BPCL') and its sub-lessee M/S Arora Auto Center, Lucknow within 24 hours after its possession had been taken by the Bank in pursuance to order under Section 14 of the SARFAESI Act, 2002 (hereinafter referred to as '**Act, 2002**') with a further observation/direction that the said respondent-petitioner shall be entitled to continue their business of retail/sale of petroleum products from the property in question.

6. The first and foremost question which falls for consideration is regarding the very maintainability of the aforesaid petitions before the learned Single Judge as no order of the DRT, Lucknow was challenged before the Writ Court. In the absence of challenge to any order of the DRT or any appellate order, a writ petition, assuming that it was otherwise maintainable, would not lie before a learned Single Judge Bench but would lie before a Division Bench in view of the orders of Hon'ble the Chief Justice dated 18.09.1981 which has been taken into consideration by a Division Bench of this Court in ***Special Appeal No.282 of 2025 (Lucknow Development***

Authority vs. Mohammad Zaimul Islam and Another).

7. Even if, any order of the DRT was to be challenged, ordinarily a writ petition under Article 227 of the Constitution of India would be filed, regarding which, the learned Single Judge who has passed the impugned interim order did not have jurisdiction on the given day as per the roster determined by Hon'ble the Chief Justice of this Court. In fact, learned Single Judge has passed the impugned order in exercise of jurisdiction under Article 226 of the Constitution of India in a writ petition.

8. As original records of the aforesaid two writ petitions were tagged with these appeals, we have perused the same and found that the Reporting Section of this Court while passing the writ petitions required a bench copy to be filed by the petitioner as the matter was cognizable before a Division Bench and not a Single Judge Bench but the Counsel appearing for the petitioner in Writ C No.11302 of 2025 filed by the respondent M/S Arora Auto Center, Lucknow and its partner, made an endorsement-'*matter related with Single Bench, Bench copy are not required explained before Hon'ble Court, if*

required' and in Writ C No.11298 of 2025 the noting made by the learned Counsel for the respondents-petitioners was-'*Bench copy not required'*.

9. As learned Counsel for the petitioner was present in Court we asked him to kindly demonstrate as to how the writ petitions were maintainable before the learned Single Judge Bench but he was completely at sea and could not offer any explanation what to say of an acceptable one. We deprecate such practice of making endorsements in response to the deficiency pointed out by the Reporting Section as noted hereinabove.

10. We further provide, as and when the Reporting Section finds that the matter is cognizable by a particular bench, whether a Single Judge Bench or a Division Bench in terms of the rules of the Court and/or order of Hon'ble the Chief Justice, then, irrespective of the noting made by learned Counsel, the Reporting/Listing Section should send the matter for consideration before the Bench which according to the Reporting/Listing Section has jurisdiction to hear the matter and it is before such bench that the Counsel appearing for the petitioner or the other side can raise a plea that the matter was cognizable by another bench but, there is no way that on mere asking or noting

of the learned Counsel for the petitioner, as has happened in this case, the Reporting/Listing Section should list the matter before a Bench which according to it did not have the jurisdiction in the matter. Jurisdiction of a Bench cannot be decided by noting of a learned Counsel. It has to be reported by the Reporting/Listing Section in terms of the order of Hon'ble Chief Justice etc., as referred hereinabove and the matter has to be listed accordingly.

11. Faced with this situation, Shri J.N. Mathur, learned Senior Counsel appearing for the respondents-petitioners submitted that he does not wish to join issue as regards jurisdiction of the learned Single Judge to hear the writ petitions and is willing to argue the writ petitions before this very Division Bench and accordingly, he proceeded to address the Court on the writ petitions also, in addition to the special appeals, that is why we heard and reserved our judgment on 13.03.2026 in respect of all the special appeals and both the writ petitions referred hereinabove. We may in this context quote the relevant part of our order dated 13.03.2026 passed in these appeals which reads as under:-

"3. We had tagged the writ petitions bearing Writ C No.11298 of 2025 and Writ C No.11302 of 2025 along with the appeals vide our order

dated 12.02.2026. It is informed that thereafter some application for amendment was filed in the said writ petitions which were taken up before the learned Single Judge and which was allowed allegedly without any opportunity to the appellants before us to object the same and without the records of writ petition being available before the learned Single Judge. Certain objections have been raised with regard to allowing of the said amendment application. We do not express any opinion at this stage as we propose to deal with this aspect, if required, in our final order/ judgment. Sri Jaideep Narayan Mathur, learned Senior Counsel appearing for the respondents-petitioners submitted that the writ petitions filed by the respondents-petitioners be also heard along with these appeal and the same be decided as records of the writ petitions are already tagged with the appeals. With the consent of the parties, not only special appeals arising out of Writ C No.11298 of 2025 and Writ C No.11302 of 2025 but also the writ petitions have been heard, meaning thereby, now the aforesaid writ petitions shall not be listed before the learned Single Judge for any purpose, as, after hearing the parties, we are reserving our judgment not only in the appeals but also the writ petitions.

4. Judgment reserved.

5. The interim order already in operation in appeals shall continue to operate till delivery of judgment."

12. We have perused the interim order dated 28.11.2025 passed by learned Single Judge Bench as impugned in these special appeals and find that it had grossly erred in entertaining the said writ petitions not only for the reasons mentioned hereinabove but also otherwise, as,

for the same reliefs as prayed in the writ petitions, securitization applications are pending before the Debt Recovery Tribunal, Lucknow (hereinafter referred to as 'DRT, Lucknow') at the behest of the respondents-petitioners.

13. In this context, we may now consider the writ petitions and in that context the securitization applications pending before the DRT at Lucknow as also the interim order passed by the Writ Court.

14. Writ C No.11298 of 2025 has been filed seeking the following reliefs:-

"i. Issue a writ, order or direction in the nature of certiorari quashing entire the entire securitization Proceedings initiated on the behest of predecessor of the Asset Reconstruction Company i.e. PHOENIX ARC Private Limited under the provisions of SARFAESI Act 2002 including the Notice Under section 13 (2) dated 31.05.2023 (Annexure No.6), Notice Under section 13 (4) dated 07.10.2023 (Annexure No.9), Sale Notice dated 15.06.2024 (Annexure No. 12) as well the Auction and sale of the the property admeasuring 32,879 Sq. Ft., Khasra No. 131, situated at Sheikhpura, Kasaila at Faizabad Road, Lucknow after declaring the entire securitization Proceedings as viod ab initio.

ii. Issue a writ, order or direction in the nature of certiorari quashing the pre-possession notice dated 09.10.2025 (Annexure No.19) issued under the signatures of Additional City Magistrate, IV

Lucknow to Late Rani Devi for delivering the possession of the property after declaring the issuance of the Notice as illegal and void ab initio.

iii. Issue a writ, order or direction in the nature of certiorari quashing the order dated 18.08.2025 (Annexure No.17) passed by Additional District Magistrate (T-G, Lucknow) under section 14 of the SARFAESI Act, 2002 against dead persons i.e Late Rani Devi and Late Krishna Devi.

iv. Issue a writ, order or direction in the nature of certiorari quashing the order/notice dated 31.10.2025 (Annexure No.21) issued by asset reconstruction company i.e. PHOENIX ARC Private Limited to the petitioner.

v. Issue a writ, order or direction in the nature of mandamus directing the opposite party to restore back the possession of the Plot admeasuring 32879 Sq. Ft situated at Khasra No. 131 at Shekhpur Khasaila at Faizabad Road Lucknow along with all its assets/immovable properties within the time frame as may deem fit a proper by this Hon'ble Court.

vi. Issue such other appropriate writ, order or direction which this Hon'ble Court may deem just and proper in the circumstances of the case may also be passed; and

vii. To award the cost of the writ petition to the Petitioner against the Opposite Parties."

15. The aforesaid writ petition has been filed by BPCL which claims to have a lease in its favour in respect of the

secured asset. BPCL has filed a Securitization Application bearing S.A. No.909 of 2023 before the DRT, Lucknow under Section 17(1) of the Act, 2002 seeking the following reliefs:-

"(I) To set aside/quashed the entire securitization Proceedings initiated by the Respondent No.1, under the provisions of SARFAESI Act 2002 as far as it relates to the applicant.

(II) To declare the possession notice dated 07.10.2023 issued under Section 13(4) of SARFAESI Act read with rule 8(1) of the security interest (Enforcement) Rules 2002 and the notices issued under section 13(2) of SARFAESI Act involving the assets and structures of the applicant as invalid and illegal.

(III) Pass appropriate order/direction whereby directing the respondent No. 1 through its authorized officer/ agents not to take coercive measures against the applicant in relation to the property of the applicant mentioned in the Notice dated 07.10.2023 issued under Section 13(4) of SARFAESI Act read with rule 8(1) of the security interest (Enforcement) Rules 2002 till the disposal of the securitization application.

(IV) To declare the applicant herein as a bonafide tenant in respect of the leasehold property.

(V) To award cost of the present proceeding in favour of the applicant and against the Respondent.

(VI) To grant any other relief as this Hon'ble Tribunal may deem fit and proper under the circumstances of the case."

16. The aforesaid S.A. was filed by BPCL arraying Piramal Capital and Housing Finance Limited, the then secured creditor, Smt. Rani Devi and Smt. Krishna Devi, the guarantors of the loan amount. The borrower being Andes Town Planners Private Limited against which there was moratorium order in proceedings under the Insolvency and Bankruptcy Code, 2016 on account of which the secured creditor could not proceed against the borrower but could do so against the guarantors.

17. On a conjoint reading of the relief clause in S.A. No.909 of 2023 filed by BPCL and the writ petition filed by it, it is apparent that the reliefs were substantially similar and related to the measures/securitization proceedings initiated by the Bank under the Act, 2002 in respect of the same secured asset. The order dated 18.08.2025 passed by the Additional District Magistrate, Lucknow under Section 14 of the Act, 2002, the pre-possession notice dated 09.10.2025 in this regard and the consequential notice dated 31.10.2025 were also in the context of the same subject matter which was pending consideration before DRT, Lucknow. As such, veritably, the writ petition under Article 226 of the Constitution was filed by BPCL seeking essentially the

same reliefs as has already been sought before the DRT, Lucknow in S.A. No.909 of 2023. Moreover, legal position is settled that an order passed under Section 14 of the Act, 2002 is amenable to challenge under Section 17 of the Act, 2002, therefore, a writ petition under Article 226 or a petition under Article 227 of the Constitution of India is not maintainable.

18. Further, BPCL filed another securitization application under Section 17 of the Act, 2002 bearing S.A. No.487 of 2024 arraying therein not only Piramal Capital and Housing Finance Limited which was already a party in the earlier securitization application bearing S.A. No.909 of 2023 but also arraying Omkara Assets Reconstruction Private Limited to which the loan had been assigned by Piramal Capital and Housing Finance Limited, and M/S Andes Town Planners Private Limited alongwith the guarantors referred hereinabove, who were already party in the earlier proceedings. The relief prayed for in S.A. No.487 of 2024 by BPCL is as under:-

"(I) To set aside/quashed the entire securitization Proceedings initiated by the Respondent No.1, under the provisions of SARFAESI Act 2002 as far as it relates to the applicant.

(II) Pass appropriate order/direction whereby directing the respondent bank through its authorized officer/agents not to take coercive measures against the applicant in relation to the property of the applicant mentioned in the Sale notice dated 15.06.2024 issued under Section 13(4) of SARFAESI Act read with rule 8(6) of the security interest (Enforcement) Rules 2002 till the disposal of the securitization application.

(III) To declare the applicant herein as a bonafide tenant in respect of the leasehold property.

(IV) To award cost of the present proceeding in favour of the applicant and against the Respondent.

(V) To grant any other relief as this Hon'ble Tribunal may deem fit and proper under the circumstances of the case."

19. As would be evident on a conjoint reading of the relief clause in S.A. No.487 of 2024 with the earlier securitization application bearing S.A. No.909 of 2023 and the pleadings therein which are on record, not only the cause of action and subject matter in issue was same but the relief clause was also same and the only difference was addition of new defendants/respondents in the proceedings. We do not say much except that it is for the DRT, Lucknow to see as to how this second securitization application was maintainable.

20. During pendency of securitization application bearing S.A. No.487 of 2024 an order passed on 18.08.2025 by the Additional District Magistrate, Lucknow under Section 14 of the Act, 2002, therefore, this order was also challenged by means of an amendment, which was allowed, therefore, the challenge to Section 14 of the Act, 2002 order dated 18.08.2025 is also pending before the DRT, Lucknow in the aforesaid securitization application, thus, for substantially the same relief as was sought in Writ C No.11298 of 2025, two securitization applications were already pending at the behest of BPCL before the DRT, Lucknow as already stated.

21. While filing the writ petition, no order passed by the DRT was challenged, therefore, apparently, the writ petition was not maintainable as the subject matter in issue was the same as was already pending before the DRT, Lucknow and it was relating to a dispute between private parties, for this reason also the writ petitions were/are not maintainable.

22. Not only this, the sub-lessee of BPCL i.e. M/S Arora Auto Center, Lucknow filed a securitization application bearing S.A. No.958 of 2023 before the DRT, Lucknow seeking the following reliefs:-

"(a) To quash the possession notice dated 07.10.2023 purported to be issued under Section-13 (4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 in respect of Plot of Land admeasuring 32,879 sq. ft. Khasra No. 131, situated at Shikhpur Kasaila, at Faizabad Road, Lucknow alongwith entire present and future structure thereon, which is actual physical possession of the applicants under the dealer ship agreement since the year 1972 and the said a dealership agreement lastly renewed on 15.07.2020 owned by the applicants no. 4 morefully described in para 1 of this application).

(b) To set aside the proceedings initiated by the respondent no 1 under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 in respect of Plot of Land admeasuring 32,879 sq. ft. Khasra No. 131, situated at Shikhpur Kasaila, at Faizabad Road, Lucknow alongwith entire present and future structure thereon morefully described in para 1 of this application).

(c) Such other order as this Hon'ble Tribunal may deem fit and proper under the circumstances of the case so as to protect and safeguard the interest of the applicants may also be passed in the interest of justice."

23. The aforesaid securitization application was disposed of on 16.07.2024 by the DRT, Lucknow taking note of an order dated 02.03.2023 passed by National Company Law Tribunal, New Delhi in IB No.317/ND/2022 whereby Interim Resolution Professional (IRP) had been appointed

and a moratorium and public announcement had been ordered by NCLT, New Delhi.

24. Being aggrieved by the said order M/S Arora Auto Center, Lucknow, the sub-lessee has already preferred an appeal under Section 18 of the Act, 2002 before Debt Recovery Appellate Tribunal, Allahabad impleading the guarantors, which is still pending and was also pending on the date of filing of the writ petition by it.

25. M/S Arora Auto Center, Lucknow has also preferred an application under Section 16(5) of Insolvency and Bankruptcy Code, 2016 for being impleadment as respondent in the proceedings before National Company Law Tribunal, New Delhi after dismissal of its S.A. on 16.07.2024.

26. After passing of the order of possession under Section 14 of the Act, 2002 dated 18.08.2025 by Additional District Magistrate, Lucknow, M/S Arora Auto Centre, Lucknow filed another securitization application bearing S.A. No.1067 of 2025 challenging the said order dated 18.08.2025, the sale notice dated 23.07.2025 and the sale certificate issued in favour of the auction purchaser M/S Waheguru Projects Private Limited,

Lucknow and also praying that the bank should not take physical possession.

27. In S.A. No.1067 of 2025 an interim relief application was filed by M/S Arora Auto Center, Lucknow that till disposal of the said S.A., respondent may not take physical possession of the property in pursuance to the order passed by Additional District Magistrate, Lucknow and also not to issue sale certificate. This application was rejected on 01.11.2025 on the ground that the applicant was a sub-lessee of BPCL and has got only right through the latter and not independent of it whose two securitization applications were already pending for the same reliefs.

28. We are not aware as to whether the order of DRT dated 01.11.2025 has been challenged by M/S Arora Auto Center, Lucknow in appeal but it was certainly not challenged before the Writ Court out of which the special appeal bearing Special Appeal No.422 of 2025 arises.

29. In spite of the facts noticed above, the sub-lessee M/S Arora Auto Center filed a writ petition bearing Writ C No.11302 of 2025 seeking the following reliefs:-

I. Issue a writ, order or direction in the nature of Certiorari quashing the notice under Section 13(2) of SARFAESI Act, 2002 dated 31.05.2023 and declaring it to be void ab initio to the extent that it relates to Smt. Krishna Devi and Late Smt. Rani Devi as contained in Annexure No. 1 to this writ petition.

II. Issue a writ, order or direction in the nature of Certiorari quashing the order passed under Section 13(4) of SARFAESI Act, 2002 dated 07.10.2023 and declaring it to be void ab initio to the extent that it relates to Smt. Krishna Devi and Late Smt. Rani Devi as contained in Annexure No. 4 to this writ petition.

III. Issue a writ, order or direction in the nature of Certiorari quashing the order passed under Section 14 of SARFAESI Act, 2002 dated 18.08.2025 passed by Additional District Magistrate (T-G, Lucknow) under section 14 of the SARFAESI Act, 2002 and declaring it to be void ab initio to the extent that it relates to Smt. Krishna Devi and Late Smt. Rani Devi as contained in Annexure No. 9 to this writ petition.

IV. Issue a writ, order or direction in the nature of Certiorari quashing the Sale Notice dated 15.06.2024 and declaring it to be void ab initio pertaining to the property situated at Khasra no. 131, Shekhpur Kaisala, Faizabad Road, Lucknow Devi as contained in Annexure No. 6 to this writ petition.

V. Issue a writ, order or direction in the nature of Certiorari quashing the Auction notice dated 23.07.2025 and declaring it to be void ab initio pertaining to the property situated at Khasra no. 131, Shekhpur Kaisala, Faizabad Road, Lucknow Devi as contained in Annexure No. 10 to this writ petition.

VI. Issue a writ, order or direction in the nature of Certiorari quashing the order/notice dated 31.10.2025 issued by asset reconstruction company i.e. Phoenix Arc Private Limited to the petitioner as contained in Annexure No. 17 to this writ petition.

VII. Issue a writ, order or direction in the nature of Certiorari quashing the pre-possession notice dated 09.10.2025 passed by Additional District Magistrate (T-G, Lucknow) and and declaring it to be void ab initio as contained in Annexure No. 23 to this writ petition

VIII. Issue a writ, order or direction in the nature of Certiorari quashing the entire proceedings under SARFAESI Act, 2002 and declaring it to be void ab initio to the extent that it relates to Late Smt. Krishna Devi and Late Smt. Rani Devi.

IX. Issue a writ, order or direction in the nature of Mandamus to direct the Respondent to restore the possession of the petitioner over the property in question for the purposes of running its business.

X. Issue a writ, order or direction in the nature of Mandamus to absolve the petitioners of any liability in case there is any accident as a result of the leakage or explosion of hazardous materials which have been illegally possessed by the respondents.

XI. Issue a writ, order or direction in the nature of Mandamus to hold liable the respondents concerned who have illegally taken forcible possession of the said property.

XII. Issue a writ, order or direction in the nature of Mandamus to restrain the Respondent no. 5 from disposing off the petroleum products and other hazardous material forcibly taken from the said property.

XIII. Grant such other/further relief, as may be deemed just and appropriate in the facts and circumstances of the case.

XIV. Award costs in favour of the petitioners."

30. From what has been discussed hereinabove, it is evident that all issues pertaining to the recovery/securitization proceedings initiated by the financial institution/secured creditor, which was initially Dewan Housing Finance Corporation Limited which assigned the loan to Piramal Capital and Housing Finance Limited which in turn assigned it to Omkara Assets Reconstruction Private Limited and ultimately the loan came to be assigned to Phoenix Arc Private Limited which is one of the appellants before us, are pending consideration before the DRT/DRAT in various securitization applications etc., therefore, the writ petitions under Article 226 of the Constitution of India by the respondents-petitioners were apparently not maintainable.

31. BPCL claims itself to be the lessee of the secured asset and M/S Arora Auto Center, Lucknow is sub-lessee which is running a petrol pump on the said land.

32. Various submissions have been made by Shri J.N. Mathur on the merits of the issues involved which are

already pending consideration before the DRT, Lucknow such as initiation of the proceedings illegally which were void, BPCL being kept in dark about the recovery proceedings, the mortgage deed said to have been executed by the guarantors being forged, fabricated and void ab-initio and that proceedings having been held against dead persons, however, all these issues are pending consideration before the DRT, Lucknow and we are only concerned with the question as to whether the two writ petitions were/are maintainable before the Writ Court during pendency of the proceedings before the DRT, Lucknow. The writ petitions were apparently not maintainable.

33. In fact, we have gone through the contents of the writ petitions and do not find any cause of action for the said petitions to have been filed, once the remedy under Section 17 of the Act, 2002 had already been availed by the respondents-petitioners by filing securitization applications under Section 17 of the Act, 2002 which are still pending. The writ petition of BPCL bearing Writ C No.11298 of 2025 was filed on 10.11.2025 after not only auction sale having been held by the financial institution in which M/S Waheguru Projects Private Limited, Lucknow

was the highest bidder but the sale certificate had also been issued after confirmation of sale and after physical possession had also been handed over to the auction purchaser on 27.10.2025.

34. As already stated the writ petition was filed by BPCL for substantially the same relief regarding which S.A.s were already pending before DRT, Lucknow and in that writ petition, the learned Single Judge passed the impugned interim order for restoring the possession back as already referred hereinabove, which he could not have done.

35. Not only the writ petition was not cognizable by a Single Judge Bench but, even otherwise, the writ petitions were/are not maintainable. The legal position in this regard is very well settled by a catena of decisions of Hon'ble the Supreme Court and this Court. We may in this regard refer to Coordinate Bench judgment of this Court rendered in ***Writ C No.2119 of 2023; Hindustan Petroleum Corporation Limited vs. Union of India and Others, dated 07.04.2023; Writ C No.12822 of 2025; M/S Education Academy and Others vs. District Magistrate District Sitapur and Others,*** dated 28.12.2025; ***Special Appeal No.48 of 2026;***

S.B.I. Stressed Assets Recovery Branch and Another vs. M/s G.S.M. Bricks and Tiles and Others, dated 23.02.2026, wherein various decisions of Hon'ble the Supreme Court have been considered which need not be reiterated.

36. We may emphasize that it is not a case where alternative statutory remedy under Section 17 of the Act, 2002 had not been availed by the respondents-petitioners and they filed a writ petition, assuming it could be filed, making out a case that it fell in any of the three or four exceptions carved out by Hon'ble the Supreme Court as discussed by a Coordinate Bench in its judgment dated 23.02.2026 rendered in Special Appeal No.48 of 2026

S.B.I. Stressed Assets Recovery Branch (supra), but, a case where the statutory alternative remedy had already been availed and during its pendency without there being any challenge to any order passed by the DRT before whom the securitization proceedings were pending and without there being any appellate order passed in such proceedings or being challenged, a writ petition was filed under Article 226 of the Constitution of India which was not only entertained but an interim order as already referred hereinabove was passed. This is

clearly against the settled law on the subject and all settled norms as regard maintainability of such petitions.

37. We may in this very context refer to decision of Hon'ble the Supreme Court passed in ***Bombay Metropolitan Region Development Authority v. Gokak Patel Volkart Ltd.*** reported in **1995 (1) SCC 642** wherein a similar situation albeit in a different context had occurred and a writ petition had been filed and entertained after the petitioner had already availed a statutory remedy and during its pendency whereupon Hon'ble the Supreme Court observed as under:-

"12. The contention of the appellant in this appeal is that in the first place the writ petition should not have been entertained. The writ petitioner had an adequate alternative statutory remedy. The writ petitioner had in fact already taken advantage of alternative remedy provided by the statute and had preferred an appeal against the judgment of the Tribunal. While the said appeal was pending the writ petitioner invoked the writ jurisdiction of the Bombay High Court praying more or less the same remedy as was prayed in the appeal.

13. We are of the view that the point taken by the appellant is of substance. This is a case, where there is not only the existence of an alternative remedy but the writ petitioner actually had availed of that remedy. The writ petitioner's appeal before the statutory authority was pending. In that view of the matter this writ petition should not have been entertained."

38. The observations/ratio contained in the said judgment as quoted hereinabove applies to the case at hand on all its fours.

39. In similar circumstances, Hon'ble the Supreme Court in a case reported in **2010 11 SCC 622; Om Prakash Saini v. DCM Ltd.** disapproved the entertainment of a petition by the High Court under Article 226 and 227 of the Constitution of India after an effective alternative statutory remedy had already been availed. Paragraph No.13 and 14 of **Om Prakash Saini (supra)** are quoted below:-

"13. Admittedly, Respondent 1 had availed the alternative remedy available to it under Section 21 by filing an appeal against the order of the State Commission. During the pendency of the appeal, Respondent 1 chose to challenge the order of the State Commission by filing a petition under Article 227 of the Constitution, which was entertained by the learned Single Judge on the basis of the assurance given by the learned counsel that the appeal filed before the National Commission will be withdrawn. The order passed by the learned Single Judge on 21-3-2007 or the one by which the petition filed by Respondent 1 was finally disposed of does not contain any indication as to why the learned Single Judge thought it proper to make a departure from the rule that the High Court will not entertain a petition under Article 226 or 227 of the Constitution if an effective alternative remedy is available to the aggrieved person.

14. In our view, during the pendency of the appeal filed by Respondent 1 under Section 21 of the 1986 Act, the learned Single Judge was not at all justified in entertaining the petition filed under Article 227 of the Constitution merely because he thought that the State Commission did not have the jurisdiction to entertain the complaint in view of the scheme sanctioned by the Company Judge under Section 391 read with Sections 392 and 394 of the Companies Act."

40. Further, in the absence of any challenge to any order passed by the DRT, Lucknow or the Debt Recovery Appellate Tribunal (hereinafter referred to as 'DRAT'), essentially the relief sought in the writ petition is against a private financial institution-asset reconstruction company, therefore, the writ petition, in view of the pronouncement of Hon'ble the Supreme Court in the ***Phoenix ARC (P) Ltd. v. Vishwa Bharati Vidya Mandir*** reported in **(2022) 5 SCC 345** is not maintainable for this reason also. We may in this context quote paragraph No.18 of the said authority:-

"18. Even otherwise, it is required to be noted that a writ petition against the private financial institution — ARC — the appellant herein under Article 226 of the Constitution of India against the proposed action/actions under Section 13(4) of the Sarfaesi Act can be said to be not maintainable. In the present case, the ARC proposed to take action/actions under the Sarfaesi Act to recover the borrowed amount as a secured creditor. The ARC as such cannot be

said to be performing public functions which are normally expected to be performed by the State authorities. During the course of a commercial transaction and under the contract, the bank/ARC lent the money to the borrowers herein and therefore the said activity of the bank/ARC cannot be said to be as performing a public function which is normally expected to be performed by the State authorities. If proceedings are initiated under the Sarfaesi Act and/or any proposed action is to be taken and the borrower is aggrieved by any of the actions of the private bank/bank/ARC, borrower has to avail the remedy under the Sarfaesi Act and no writ petition would lie and/or is maintainable and/or entertainable. Therefore, decisions of this Court in Praga Tools Corpn. [Praga Tools Corpn. v. C.A. Imanual, (1969) 1 SCC 585] and Ramesh Ahluwalia [Ramesh Ahluwalia v. State of Punjab, (2012) 12 SCC 331 : (2013) 3 SCC (L&S) 456 : 4 SCEC 715] relied upon by the learned counsel appearing on behalf of the borrowers are not of any assistance to the borrowers."

41. In the same judgment i.e. in **Phoenix ARC (P) Ltd. (supra)**, applying the law laid down by Hon'ble the Supreme Court in the case of **State Bank of Travancore vs. Mathew KC** reported in **(2018) 3 SCC 85**, it was held as under:-

"21. Applying the law laid down by this Court in Mathew K.C. [State Bank of Travancore v. Mathew K.C., (2018) 3 SCC 85 : (2018) 2 SCC (Civ) 41] to the facts on hand, we are of the opinion that filing of the writ petitions by the borrowers before the High Court under Article 226 of the Constitution of India is an abuse of process of the

court. The writ petitions have been filed against the proposed action to be taken under Section 13(4). As observed hereinabove, even assuming that the communication dated 13-8-2015 was a notice under Section 13(4), in that case also, in view of the statutory, efficacious remedy available by way of appeal under Section 17 of the Sarfaesi Act, the High Court ought not to have entertained the writ petitions. Even the impugned orders passed by the High Court directing to maintain the status quo with respect to the possession of the secured properties on payment of Rs 1 crore only (in all Rs 3 crores) is absolutely unjustifiable. The dues are to the extent of approximately Rs 117 crores. The ad interim relief has been continued since 2015 and the secured creditor is deprived of proceeding further with the action under the Sarfaesi Act. Filing of the writ petition by the borrowers before the High Court is nothing but an abuse of process of court. It appears that the High Court has initially granted an ex parte ad interim order mechanically and without assigning any reasons. The High Court ought to have appreciated that by passing such an interim order, the rights of the secured creditor to recover the amount due and payable have been seriously prejudiced. The secured creditor and/or its assignor have a right to recover the amount due and payable to it from the borrowers. The stay granted by the High Court would have serious adverse impact on the financial health of the secured creditor/assignor. Therefore, the High Court should have been extremely careful and circumspect in exercising its discretion while granting stay in such matters. In these circumstances, the proceedings before the High Court deserve to be dismissed."

42. As regards the contentions of Shri Mathur, learned Counsel appearing for BPCL as noticed herein, Shri Sudeep Seth, learned Senior Counsel appearing for the appellants in one of the appeals submitted that all these issues pertaining to validity of the recovery proceedings are the very subject matter of securitization applications filed by BPCL which are still pending, therefore, as they involve factual issues requiring evidence etc., they are to be seen in the said proceedings under Section 17 of the Act, 2002 and there is no way that during their pendency writ court can separately adjudicate on any of the said issues, certainly not at the behest of BPCL which is neither the borrower nor the guarantor but claims to be merely a tenant based on some lease that too one which has expired on 06.01.2025 after which its status is at best is that of a tenant in sufferance. He referred to the decision of Hon'ble the Supreme Court reported in **(2019) 9 SCC 94; Bajarang Shyamsunder Agarwal v. Central Bank of India** wherein the concept of tenant in sufferance has been considered and as per the said authority such tenants do not have any legal rights and are akin to trespassers. He also referred to another decision of Hon'ble the Supreme Court reported in **(1995) 5 SCC 698; R.V. Bhupal Prasad v. State of**

A.P. wherein the same concept was considered and it was held that a tenant at sufferance is, therefore, one who wrongfully continues in possession after the extension of a lawful title. There is little difference between him and a trespasser. He also invited our attention to the provisions of Section 17(3) and 17(4) of Act, 2002 where the rights of such tenants are to be adjudicated by the DRT itself and the same cannot be raised nor adjudicated by the writ court in separate proceeding while the securitization proceedings are still pending. We do not express any opinion on that aspect except that all these issues can be raised and considered in the pending proceedings before DRT.

43. Shri Mathur further contended that in fact, the lease was a perpetual lease in view of the provisions contained in Burma Shell (Acquisition of undertakings in India) Act, 1976 as BPCL was a successor to Burma Shell Company. In response to which, appellants' Counsel Shri Seth relied upon a decision of Hon'ble the Supreme Court reported in **(2014) 1 SCC 657; Bharat Petroleum Corpn. Ltd. v. Rama Chandrashekar Vaidya** to contend that any renewal of such lease envisaged under Section 5(2) is only a one time affair and there is no question of a

second renewal in terms of the aforesaid statutory provision. He also submitted that reliance on the aforesaid provision is also misplaced as the Central Government has never acted upon it. We again do not express any opinion on that issue as this can be seen before the DRT itself. The learned Single Judge should not have entered into such issues during pendency of securitization proceedings while passing the interim order.

44. The learned Single Judge has veritably entered into merits of the issues which are pending consideration before the DRT, Lucknow in several securitization applications filed by the respondents-petitioners which he could not have done. The learned Single Judge apparently could not have entered into the merits of the issues which were pending consideration before the DRT and could not have rendered his opinion on the same that too at the interim stage in the manner in which he has done. Factual issues requiring adducing of evidence and their appreciation have been considered and opinion expressed by the learned Single Judge which could not have been done. The learned Single Judge Bench has also been persuaded by the fact as if the proceedings were against

a dead person oblivious of the fact that it is the petitioners before it who had initiated the securitization applications impleading the guarantors some of whom had allegedly died. How far the proceedings were maintainable or not maintainable? How far the property was owned jointly by the guarantors etc.?, are all issues which can be thrashed out in the pending securitization proceedings itself and there is no occasion for this Court to entertain the writ petitions any further.

45. Shri Mathur also relied upon certain orders passed by the DRT, Lucknow to contend that there was an interim order operating when coercive action *de hors* the said interim order was taken at the behest of the financial institution by the Additional District Magistrate in issuing pre-possession notice, the order under Section 14 of the Act, 2002 and taking possession of the secured asset, therefore, according to him, this is also one of the reasons as to why the writ court should interfere in the matter.

46. Responding to it learned Counsel for the appellants submitted that the interim order was not at all operating on the date on which the possession order was passed and possession was taken. No application was filed by the

respondents-petitioners for extension of the interim order and, in fact, they accepted the situation that there was no interim order as is evident from their own conduct where they had filed an application bearing IR No.3157 of 2025 seeking interim relief before the DRT, Lucknow in the pending securitization application bearing S.A. No.487 of 2024 for restraining the respondent F1-financial institution from taking physical possession of the secured asset, therefore, the contention that there was an interim order operating is absolutely misconceived.

47. We have perused the copy of the order sheet placed before us and find that on 22.10.2024 in S.A. No.487 of 2024 which was the second S.A. filed by BPCL as already noticed earlier, an interim order passed granting opportunity to the Bank to file counter affidavit subject to the condition that the respondent-Bank will not take any coercive measure till the next date fixed. On 05.03.2025, the order passed does not speak of any extension of interim order passed earlier but on 01.04.2025, the order of the DRT, Lucknow in the said S.A. No.487 of 2024 is *inter alia* to the effect '*IR, if any is extended*'. Shri Seth submitted as there was no IR subsisting on 01.04.2025, therefore, the contention that it had been extended is

misconceived. Whereas, Shri Mathur says that the law is clear that unless specifically vacated, a time bound IR granted earlier, continues. On 03.04.2025 also the interim order was extended on the same terms i.e. *'IR, if any is extended'*. Now, there is a dispute that as to whether there was interim order subsisting on the said dates or not, nevertheless, on 03.07.2025, there is no order extending the IR and thereafter, on 18.08.2025, the Additional District Magistrate passed the order under Section 14 of the Act, 2002, therefore, the contention of Shri Seth is that on the said date there was no interim relief and this is how BPCL also understood the situation otherwise it would have filed an application for extension of the IR instead it filed an application bearing No.3157 of 2025 as discussed hereinabove seeking interim relief for restraining the financial institution from taking physical possession of the secured asset as noticed in the order of the DRT, Lucknow dated 02.09.2025 which passed an order for its listing on 22.09.2025 for hearing on interim relief.

48. We are of the opinion that all these issues will have to be raised before the DRT, Lucknow in the pending securitization applications. The BPCL itself does not

appear to have pursued the matter before DRT, Lucknow diligently as is evident from the facts as noticed hereinabove. We say no more on this issue.

49. As regards contention of Shri Mathur that huge amount of petrol is lying in the petrol tanks thereby posing a danger to the security of the entire premises and as it is an essential commodity, therefore, for this reason also, the writ court should interfere in the matter, in response, Shri Seth has invited our attention to the Petroleum Rules, 2002 to submit that suitable arrangements can be made under the said rules for removing the petroleum lying in the tanks in the premises in question. He also invited our attention to various notices sent to BPCL for doing the needful in this regard, all of which have gone unheeded and instead of acting upon it, the writ petition was filed.

50. We are of the opinion that so far as petroleum lying in the tanks is concerned certainly this is a matter which requires attention of all the concerned including BPCL and its sub-lessee, we, therefore, provide that if the respondents-petitioners i.e. BPCL and M/S Arora Auto Center, Lucknow want that the petroleum should be taken out from the said tanks then they can approach the

concerned authorities under the aforesaid rules, who shall be obliged to the needful promptly so that the petroleum lying there does not remain there for long and is taken out and is utilized as per law.

51. It was also the contention of Shri Mathur that under the lease there are structures existing on the premises to which BPCL has a right and interest but this aspect has also been lost sight of. Dr. L.P. Mishra and Shri Seth invited our attention to the condition of the lease deed which had already expired on 06.01.2025, according to which, BPCL was under the obligation to remove the structures on expiry of the lease. It was also their submission that these are temporary structures and none of the appellants have any objection if BPCL wants to remove those structures and take them away. They accede to this extent. We are also, therefore, of the view that if BPCL or M/S Arora Auto Center, Lucknow as the case may be want to remove the said structures, they are free to do so unless of course they want to contest the matter before the DRT, Lucknow in which case it is open for them to do so.

52. As regards validity of the mortgage deed dated 01.10.2014 which was sought to be addressed before us

by Shri Mathur, this is also an issue which can be raised before the DRT, Lucknow in the pending proceedings as far as otherwise permissible in law. Learned Single Judge obviously erred in entering into these aspects regarding which he had no jurisdiction.

53. One of the guarantors i.e. Smt. Krishna Devi has filed an intervention application stating that she is not aware of the mortgage deed whereas, the Counsel for the appellant submitted that notices issued to Smt. Krishna Devi were served repeatedly but she did not appear deliberately and now she is siding with the so called lessee for ulterior reasons. Smt. Krishna Devi is already a party in the securitization application but has not put in appearance there although she has knowledge of the proceedings as accepted by Shri Anurag Srivastava her Counsel in January, 2026. Learned Counsel for the appellants also submitted that other legal representatives of other guarantors/ stakeholders have also filed applications stating that the mortgage deed had been executed. We do not wish to enter into these controversies which are all subject matter of the proceedings pending before the DRT, Lucknow. In fact, learned Single Judge should also not have entered into

the same. We are constrained to observe that BPCI and M/S Arora Auto Center, Lucknow themselves filed the securitization application impleading Smt. Rani Devi who, as claimed, had died. Even in the writ petition the said two persons Smt. Rani Devi and Smt. Krishna Devi were impleaded, therefore, the learned Single Judge has lost sight of this aspect of the matter that it is BPCI and M/S Arora Auto Center, Lucknow who have also initiated proceedings against a dead person, if it is so. All these issues are open for consideration by the DRT, Lucknow. In this context we had passed an order on 13.03.2026 and say nothing further.

54. The writ petition by the sub-lessee M/S Arora Auto Center, Lucknow was especially not maintainable as its securitization applications had been dismissed against which appeals have been preferred before the Debt Recovery Appellate Tribunal which are still pending.

55. As regards maintainability of the special appeals are concerned, the interim order(s), for the reasons given hereinabove are apparently without jurisdiction as the learned Single Judge did not have jurisdiction to hear such a writ petition and as by the said impugned order veritably the proceedings pending before the DRT,

Lucknow in various Securitization Applications (S.A.) have been preempted and a final relief of sorts has been ordered/granted by the impugned order, therefore, the appeals are maintainable and not much of an objection was raised by learned Counsel for the respondents-petitioners in this regard.

56. In view of the above discussions and observations, we are not only of the opinion that the interim order passed by the learned Single Judge is not sustainable and is liable to be quashed but the writ petitions itself are not maintainable before the High Court under Article 226 of the Constitution of India. We, accordingly **allow** all the special appeals and quash the interim order dated 28.11.2025 passed in Writ C No.11298 of 2025 (Bharat Petroleum Corporation Limited vs. State of U.P. and Others) and Writ C No.11302 of 2025 (M/S Arora Auto Center and Others vs. State of U.P. and Others). The writ petitions bearing Writ C No.11298 of 2025 (Bharat Petroleum Corporation Limited vs. State of U.P. and Others) and 11302 of 2025 (M/S Arora Auto Center vs. State of U.P. and Others) are **dismissed**.

57. Copy of this judgment be sent to Registrar General and Senior Registrar of this Court at Allahabad and Lucknow respectively, for compliance.

58. Let a copy of this order be placed on the records of Writ C No.11298 of 2025 and Writ C No.11302 of 2025.

(Syed Qamar Hasan Rizvi,J.) (Rajan Roy,J.)

April 24, 2026

-Piyush-