

SUPREME COURT OF INDIA

Before: Justice Rohinton Fali Nariman and Justice Navin Sinha , JJ.

ICICI Bank Ltd. v. Umakanta Mohapatra

Civil Appeal Nos. 10243-10250 of 2018 (Arising out of Special Leave to Appeal (C) Nos. 9145-9152 of 2014) and Civil Appeal Nos. 10251-10265 of 2018 (Arising out of SLP (C) Nos. 16758-16772 of 2015

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) - Constitution of India, Article 226 - Writ - High Courts continue to entertain matters which arise under the SARFAESI, and keep granting interim orders in favour of persons who are Non-Performing Assets (NPAs) - Writ petition itself was not maintainable - Writ petition, being not maintainable, obviously, all orders passed must perish, including the impugned order, which is set aside.

05.10.2018

ORDER

1. Delay condoned.
2. Leave granted.
3. Despite several judgments of this Court, including a judgment by Hon'ble Mr. Justice Navin Sinha, as recently as on 30.01.2018, in Authorized Officer, **State Bank of Travancore and Anr. v. Mathew K.C., 2018 PLRonline 1106**, (2018) 3 SCC 85, the High Courts continue to entertain matters which arise under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI), and keep granting interim orders in favour of persons who are Non-Performing Assets (NPAs).
4. The writ petition itself was not maintainable, as a result of which, in view of our recent judgment, which has followed earlier judgments of this Court, held as follows:
 18. *We cannot help but disapprove the approach of the High Court for reasons already noticed in Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engineering Works (P) Ltd. and Anr., 1997 PLRonline 0008 , (1997) 6 SCC 450, observing:*
 32. *When a position, in law, is well settled as a result of judicial pronouncement of this Court, it would amount to judicial impropriety to say the least, for the subordinate courts including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily has the*

effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops.

5. The writ petition, in this case, being not maintainable, obviously, all orders passed must perish, including the impugned order, which is set aside.
6. The appeals are allowed in the aforesaid terms.
7. Pending applications, if any, shall stand disposed of.