HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT JAIPUR

S.B. Civil Writ Petition No. 12093/2021

Umesh Kumar Gupta S/o Shri Banbari Lal Gupta, R/o 69/12, Near Dhanwantari Hospital, Mansarovar, Jaipur.

----Petitioner

Versus

Union Bank Of India, Through Authorized Officer, Office Plot No. B-5/1, City Pearl Bldg. Opp. Hotel Gangaur, Near Pink City Petrol Pump, M.i. Road, Jaipur.

----Respondent

S.B. Civil Writ Petition No. 12394/2021

- 1. M/s Bhagwati Tyres, Through Its Proprietor Mr Vijay Sharma R/o Shop No. 8/8A, Komud Nagar, Pratap Nagar, Sector-3, Jaipur Rajasthan-302017
- 2. Mr. Vijay Sharma S/o Shri Rameshwar Sharma, Aged About 37 Years, R/o B-140, Hari Marg Malviya Nagar, Jaipur-302017
- 3. Mrs. Mamta Sharma W/o Shri Vijay Sharma, R/o B-140, Hari Marg Malviya Nagar, Jaipur-302017

----Petitioners

Versus

- Chief Manager, Canara Bank, Malviya Nagar-I, Jaipur, Rajasthan.
- 2. Authorized Officer, Canara Bank, Orbit Mall, Ajmer Road Jaipur, Rajasthan.

----Respondents

S.B. Civil Writ Petition No. 12887/2021

- Hotel Gem Place, B-10, Fateh Singh Ki Dharamshala,
 Opp. Rajputana Sherton, Railway Station, Jaipur 302001
 Through Its Prop. Smt. Farhat Jahan
- 2. Smt. Farhat Jahan W/o. Shri Mohammad Aqil, R/o 2124, Purani Sabji Mandi, Johari Bazar, Jaipur Prop. M/s. Hotel Gem Place
- 3. Mohammad Aqil S/o. Late Shri Mohd. Islam, B-11-12, Fateh Singh Ki Dharamshala, Opp. Rajputana Sherton, Railway Station, Jaipur 302001, R/o. 2124, Purani Sabji Mandi, Johari Bazar, Jaipur, R/o. Flat No. 12/30 Ground

Floor, Rhb, Malviya Nagar, Jaipur.

- 4. Mohammad Saqib S/o. Shri Mohd. Aqil, R/o. 2124, Purani Sabji Mandi, Johari Bazar, Jaipur
- 5. Mohammad Salman S/o. Shri Mohd. Aqil, R/o. 2124, Purani Sabji Mandi, Johari Bazar, Jaipur

----Petitioners

Versus

- Authorized Officer, Tata Capital Financial Services Ltd., Having Its Office At 902-906, Quantum Tower, Chinchaoli, Govindji Sarif Marg, Malad-West, Mumbai 400065
- Tata Capital Financial Services Ltd., Registered Office 11Th Floor Tower-A Peninsulia Business Park, Ganpatrao Kadam Marg, Lower Parel, Mumbai 400 013 Through Manager.
- Tata Capital Financial Services Ltd., 7Th Floor Videocon Towers, Block 7E, Jhandewalon Ext., New Delhi 110 055 Through Manager.
- 4. Tata Capital Financial Services Ltd., Branch Office At The Guman, 1St-2Nd Floor, Opp. Vaishali Nagar Post Office Ambrapali Circle, Vaishali Nagar, Jaipur Through Manager.
- 5. Reserve Bank Of India, Near Ram Bagh Circle, Tonk Road, Jaipur Through Manager.

----Respondents

S.B. Civil Writ Petition No. 13193/2021

M/s Gurukripa Anand Mobile, Through Proprietor Ravi Anand S/o Late Murlidhar Anand, B-52, Palika Bazar, City Mall, Kota-324005

----Petitioner

सत्य Versus गयते

- 1. The Chief Manager, Central Bank Of India, Near Mbs Hospital, Nayapura, Kota.
- 2. Authorized Officer, Central Bank Of India, Indraprastha Industrial Area, Kota, Rajasthan

----Respondents

S.B. Civil Writ Petition No. 14449/2021

Nanda Ram Saini S/o Shri Madholal, Aged About 50 Years, R/o 12 Asthal, Tehsil Jamwaramgarh, Jaipur Rajasthan.

----Petitioner

- 1. Chief Manager, Au Small Finance Bank Ltd., 19-A, Dhuleshwar Garden, Ajmer Road, Jaipur.
- Authorized Officer, Au Small Finance Bank Ltd., 19-A,
 Dhuleshwar Garden , Ajmer Road, Jaipur.

----Respondents

For Petitioner(s) : Mr. Amit Changani, through VC.

Mr. Manoj Kumar Sharma, through

VC.

Mr. K.N. Sharma, through VC.

Mr. Ravi Kant Sharma, through VC.

For Respondent(s) : Mr. Aditya Kiran Mathur for Bank of

Baroda, through VC.

Mr. Pankaj Gupta, through VC. Ms. Suruchi Kasliwal, through VC. Mr. Ram Naresh Vijay, through VC.

Mr. Bal Ram Vashisth, through VC. Mr. Devendra Sharma, through VC.

Mr. Alok Garg, through VC.

Ms. Anamika Arora, through VC.

HON'BLE MR. JUSTICE INDERJEET SINGH

<u>Order</u>

05/01/2022

As the question of law raised in these writ petitions is the same, therefore with consent of the parties, these petitions have been heard together and are being decided by the present order.

Admittedly, the petitioners are having alternative remedy of filing application before the Debts Recovery Tribunal under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 against the notice issued by the respondent-banks to the petitioners under Section 13(4) of the Act, 2002.

The Hon'ble Supreme Court while considering the matter under the Act of 2002, in a judgment rendered in the case of

'ICICI Bank & Ors. Vs. Umakanta Mohapatra & Ors.' reported in (2019) 13 Supreme Court Cases 497, has held as under:-

- "1. Delay condoned. Leave granted.
- 2. Despite several judgments of this Court, including a judgment by Hon'ble Mr. Justice Navin Sinha, J. as recently as on 30.01.2018, in State Bank of Travancore and Anr. vs. Mathew K.C., 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).
- 3. 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:- (SCC p.94, para 17)
- "17. We cannot help but disapprove the approach of the High Court for reasons already noticed in Dwarikesh Sugar Industries Ltd. vs. Prem Heavy Engineering Works (P) Ltd., observing: (SCC p. 463, para 32)
 - "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 for the subordinate least, 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 Such position. 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."
- 4. The writ petition, in this case, being not maintainable, obviously, all orders passed must perish, including the impugned order, which is set aside.

5. The appeals are allowed in the aforesaid terms. Pending applications, if any, shall stand disposed of."

In view of the judgment passed by the Hon'ble Supreme Court in the matter of **ICICI Bank (supra)**, these writ petitions deserve to be dismissed.

Accordingly, these writ petitions are dismissed. However, the petitioners are at liberty to file application before the Debts Recovery Tribunal with regard to their grievances taking all the legal objections before the Tribunal.

All the pending applications stand disposed of.

(INDERJEET SINGH),J

MG/28-32

