

# Ms. Sangeeta Sahni & Ors vs Union Of India & Ors on 18 February, 2021

**Author: Prateek Jalan**

**Bench: Prateek Jalan**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2210/2021

MS. SANGEETA SAHNI & ORS.

..... Pet

Through: Mr. Shashank Deo Sudhi, Advocate  
with Mr. Bijender PKumar and  
Mohit Nehra, Advocate

versus

UNION OF INDIA & ORS.

..... Respon

Through: Mr. Aditya Hooda, Advocate for  
Prakash, CGSC for R-1  
Ms. Shruti Manchanda, Advocate  
R-3 and 4

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 18.02.2021 The proceedings in the matter have been conducted through video conferencing.

CM APPL. 6440/2021(exemption) Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 2210/2021 & CM APPL. 6441/2021(for stay)

1. Issue notice. Mr. Aditya Hooda, learned counsel, accepts notice for respondent no.1. Ms. Shruti Manchanda, learned counsel, accepts notice for respondent nos.3 and 4. Service of notice upon respondent no.2 may be effected through learned Standing Counsel, in addition.

2. The relief claimed in the present petition is as follows:-

"(a) Issue a writ of mandamus against arbitrary and illegal action of the Respondents for depriving and denying the benefits of moratorium to the Petitioners loan account during the pandemic of Covid-19 and declaring the said loan account of the petitioner as NPA and had issued notice under section 13 (2) and 13 (4) of SARFAESI Act, 2002 including letter dated 09.01.2021 in utter violation to the order of this Hon'ble court dated 21.10.2020 passed in Writ Petition (Civil) No. 8275 of 2020.

And/or

(b) Issue a direction to the respondent's Bank for strike down the letters dated 16.07.2020 and 09.01.2021 of Respondent's Bank as the acts of the respondent bank is in utter violation of circular No. RBI/2019-20/186 DOR. No. BP.BC.47.21.04.048/2019-20 dated 27.03.2020 and subsequent circular No. RBI/2019-20/220 DOR.No.BP.BC.63/ 21.04.048/2019-20 dated 17.04.2020 including circular No. RBI/2019-20/244 DOR.No.BP.BC.71/21.04.048/2019-20 dated 23.05.2020 of Respondent No. 2 Bank."

3. The petitioners had filed a writ petition at an earlier stage of the proceedings, being W.P.(C)8275/2020, which was disposed of by an order dated 21.10.2020. The relief sought in W.P.(C)8275/2020 was as follows:-

"(i) Issue an appropriate writ, order or direction in the nature of Mandamus to direct the respondent Bank to withdraw demand notice dated 16.07.2020 under section 13(2) of the SARFAESI Act, 2002 and no coercive action is required against the petitioner thus being illegal and arbitrary;

ii) Issue an appropriate writ, order or direction in the nature of Mandamus directing the respondent bank to restore the petitioners account from NPA to standard account;

iii) Issue an appropriate writ, order or direction in the nature of Mandamus to direct the respondents to give the complete benefits of the Moratorium to the petitioner;

iv) Issue an appropriate writ, order or direction in the nature of Mandamus to direct the respondent No.2 to take action against the respondent No.3 Bank in violation of the circulars No.RBI/2019-20/186 DOR No.BP B.C.47.21.04.048/2019-20 dated 27th March 2020 has announced the COVID-19 Regulatory Package-Asset Classification and Provisioning and circular No.RBI/2019-20/244 DOR.No.BP.BC.71/21. 04.048/ 2019-20 dated 23.05.2020 has announced COVID 19 Regulatory Package issued by respondent No.;

v) Issue an appropriate writ, order or direction in the nature of Mandamus to direct the respondent No.4 to remove penal interest and compound interest from the loan amount of the petitioner and thereafter provide the rectified account statement to the petitioner;

vi) Issue an appropriate writ, order or direction in the nature of Mandamus to direct the respondent No.2 to take action against the banks who are violating the circular NoRBI/2019-

20/186 DOR.No.BP.47.21.04.048/2019-20 dated 27th March 2020 has announced the COVID-19 Regulatory Package and subsequent circular No.RBI/2019-20/220 DOR.No.BP.BC.63/ 21.04.048/ 2019-20 dated 17.04.2020 has announced COVID 19 Regulatory Package-Asset Classification and

Provisioning and circular No.RBI/2019-20/244 DOR No.BP.BC.71/21.04.048/2019-20 dated 23.05.2020 has announced COVID 19 Regulatory Package issued by respondent No.2: and

vii) Issue an appropriate writ, order or direction in the nature of Mandamus to direct the respondent No.2 to expeditiously dispose of the complaint dated 06.08.2020 filed by the petitioner against the respondent No.3 & 4."

4. The Court disposed of the petition with the following directions:

"4. This is a challenge to notice issued under section 13(2) of the SARFAESI Act. In my opinion, there are no reasons to interdict the said notice.

5. At this stage, learned counsel for the petitioner states that the petitioner wants to settle the matter with the respondent No.3 and 4 bank.

6. Let the respondents No.3 and 4 treat this writ petition as a representation of the petitioners. In addition, petitioner is also permitted to file a proposal for re-settlement within 10 days from today. Respondent Bank may deal with the two representations as per law keeping into account the various RBI circulars. If for some reason the respondent Bank does not accept the proposal of the petitioner, a reasoned order may be passed and duly communicated to the petitioner.

7. Learned counsel for the respondent assures that they will deal with the representation of the petitioner within three weeks on receipt.

8. Nothing further survives in the petition. Petition is disposed off. All pending applications, if any, also stand disposed of."

5. Pursuant to the order dated 21.10.2020, it appears that there have been talks between the petitioners and the respondent-bank. However, no settlement was arrived at. The bank has given a communication dated 09.01.2021 to the petitioner in this respect.

6. Mr. Shashank Deo Sudhi, learned counsel for the petitioners, contends that the aforesaid communication of the bank is not in consonance with the order of this Court dated 21.10.2020, inasmuch as reasons have not been given for the bank's decision not to accept the settlement offered by the petitioner. The respondent nos. 3 and 4 are directed to file an affidavit on this aspect.

7. With regard to the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 ["SARFAESI Act"], the order dated 21.10.2020 records in paragraph 4 that there are no reasons to interdict the notice issued by the bank under Section 13(2) thereof. It appears that the writ petition was in fact entertained by this Court only in order to permit the parties to arrive at a negotiated settlement. At this stage also, I see no reason to entertain the petition insofar as the challenges to the notices under the SARFAESI Act are concerned. The petitioners have an alternative remedy against those proceedings by way of appeal to

the Debts Recovery Tribunal ["DRT"] under Section 17 of the Act. The petitioners are at liberty to take steps in that regard, if they are so advised. In the event the petitioners approach the DRT against the notices issued under the SARFAESI Act, the DRT will consider their case in accordance with law, and pass such interim or final orders as it considers appropriate. This Court does not express any opinion upon the merits of those proceedings. However, it is made clear that the pendency of the present writ petition will not impede the proceedings under the SARFAESI Act, or any appeal which may be filed by the petitioners thereunder.

8. The counter-affidavit, including the stand on the aspects indicated in paragraph 6 above, will be filed by respondent nos.3 and 4 within four weeks. Other respondents may also file their counter-affidavits within four weeks. Rejoinders thereto, if any, be filed within two weeks thereafter.

9. List on 06.05.2021.

PRATEEK JALAN, J FEBRUARY 18, 2021 'j'