



2025:KER:79251

O.P(DRT) 183/2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

FRIDAY, THE 24TH DAY OF OCTOBER 2025 / 2ND KARTHIKA, 1947

OP (DRT) NO. 183 OF 2025

AGAINST THE ORDER/JUDGMENT DATED 26.05.2025 IN IA 499/2023
IN AIR NO.1561 OF 2023 OF DEBT RECOVERY APPELLATE TRIBUNAL,
CHENNAI ARISING OUT OF THE ORDER/JUDGMENT DATED IN SA NO.40 OF
2017 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM

PETITIONER/PETITIONER/APPELLANT/APPLICANT:

MINI ZAKIR,
AGED 55 YEARS
W/O.MUHAMED ZAKIR,SHANI MANSION,KOTTARAKAD,
KARULAI.P.O.,MALAPPURAM DISTRICT, PIN - 679330

BY ADVS.
SHRI.ZAKEER HUSSAIN
SMT.K.A.SANJEETHA
SHRI.ABY GEORGE

RESPONDENTS/RESPONDENTS/RESPONDENTS/DEFENDANTS:

- 1 M/S.PHOENIX ARC PRIVATE LIMITED,
TRUSTEE OF PHOENIX TRUST - FY 17-8, HAVING REGISTERED
OFFICE AT DANI CORPORATE PARK, 5TH FLOOR, 158 CST
ROAD, KALINA, SANTA CRUIZ (E),MUMBAI, REP. BY ITS
AUTHORISED SIGNATORY, PIN - 400098
- 2 M/S.KAERL TECH PROJECTS (P) LTD,
DOOR NO.24/8, 1ST FLOOR, 3RD CROSS STREET, V.N.NAGAR,
KARUR BYE PASS ROAD, TRICHY, TAMILNADU,REPRESENTED BY
ITS MANAGING DIRECTOR, PIN - 620002



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BY ADVS.
ADV.NIDHI SAM JOHNS
SRI.LIJO JOSEPH (THOPPIL)
SRI.A.KEVIN THOMAS
SMT.CELIA SANTHOSH
SRI.A.V.THOMAS (SR.)

THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR
ADMISSION ON 13.10.2025, THE COURT ON 24.10.2025 DELIVERED THE
FOLLOWING:



“C.R.”

MOHAMMED NIAS C.P., J.

.....
OP (DRT) No. 183 of 2025

.....
Dated this the 24th day of October, 2025

JUDGMENT

The question that arises for consideration is whether, for the purpose of computing the ‘debt due’ under the proviso to Section 18(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (*hereinafter referred to as the SARFAESI Act for short*), future interest accruing after the issuance of notice under Section 13(2) of the SARFAESI Act is liable to be included?

2. The petitioner challenges Ext. P22 and P23 orders of the Debt Recovery Appellate Tribunal rejecting his application for waiver of pre-deposit and consequently dismissing the statutory appeal. The petitioner is the appellant in Appeal No. AIR 1561 of 2023 on the file of the DRAT, Chennai, which was preferred against the order dated 29.09.2023 in S.A. No. 40 of 2017 on the file of the DRT-I, Ernakulam, wherein the petitioner was the applicant and the respondents herein were arrayed as defendants.



2.1. The petitioner had availed a housing loan of Rs. 50 lakhs and an additional housing loan of Rs. 35 lakhs from South Indian Bank, with 44 cents of land offered as security. The 2nd respondent, a private limited company in which the petitioner's husband is a Director, had availed an overdraft facility of Rs. 2,50,00,000/- from the same bank, secured by 75.5 cents of land and a building. On default of the company's loan, the bank clubbed the petitioner's liability with that of the company and issued an Ext.P1 demand notice dated 27.02.2015 for Rs. 3,64,68,465/-, followed by Ext.P2 possession notice dated 18.08.2015. Thereafter, S.A. No. 40 of 2017 was filed before the DRT, along with I.A. No.443 of 2017, seeking to restrain dispossession from the petitioner's residence. In the meantime, the financial asset was assigned to the 1st respondent under Section 5 of the SARFAESI Act, and the 1st respondent was substituted as the defendant in Ext.P5. By Ext. P11 order dated 29.09.2023, the DRT dismissed the Securitisation application.

2.2. Challenging Ext.P11 order of the DRT, the petitioner preferred Ext.P12 appeal, under Section 18 of the SARFAESI Act, before the DRAT, along with Ext.P13 unnumbered stay petition and Ext.P14 I.A. No.499/2023 seeking waiver of pre-deposit. Meanwhile, when the Advocate Commissioner issued notice for taking physical possession, the petitioner filed O.P.(DRT) No.456/2023 and, pursuant to the interim order therein, effected payments of



Rs. 10 lakhs and Rs. 15 lakhs evidenced by Exts. P15 and P16. The petitioner, by Ext.P21 additional affidavit dated 13.02.2024, placed before the DRAT that after Ext.P1 demand notice and Ext. P2 possession notice, she had deposited a total of Rs. 1,70,00,000/-, and sought waiver of further pre-deposit to enable adjudication of the appeal on merits.

2.3. The DRAT, however, by Ext.P22 order dated 07.04.2025 in I.A. No.499/2023, directed the petitioner to deposit Rs. 1,57,63,026/-, being 40% of the amount demanded in Ext.P2 possession notice, i.e., Rs.3,94,07,566/-, within a period of six weeks in two equal instalments of which first instalment of Rs.78,81,513/-, within three weeks and the second instalment of Rs.78,81,513/- within three weeks thereafter, failing which the appeal would stand dismissed. This order, it is contended, is contrary to Section 18(1) of the SARFAESI Act, under which the maximum obligation is 50% of the debt demanded or determined, with a discretion to reduce to not less than 25%. Since the petitioner had already remitted Rs. 2,25,00,000/-, including Rs. 75,00,000/- after filing Ext.P12 appeal, she had in fact deposited more than 50% of the amount demanded. The petitioner asserts that there was, therefore, no obligation to make any further deposit, and that the Tribunal had no authority to re-work the figure for deposit dehors the statute. Nevertheless, when the matter came up on 26.05.2025, despite submissions



that more than 50% had already been paid and a request for time, the DRAT, by Ext.P23 order, dismissed Ext.P14 waiver application and consequently rejected Ext.P12 appeal.

3. In the counter affidavit filed by the 1st respondent, M/s Phoenix ARC Pvt. Ltd., contends that the Original Petition under Article 227 of the Constitution is not maintainable, as there are no extraordinary circumstances warranting interference by this Court, particularly when the petitioner has huge outstanding dues exceeding Rs. 13 crores.

3.1. It is submitted that the amounts claimed to have been deposited by the petitioner cannot be treated as compliance with the mandatory pre-deposit under Section 18(1) of the SARFAESI Act. Payments made pursuant to conditional interim orders of the DRT and this Court, as well as amounts paid under the failed OTS, were all duly appropriated to the loan account and adjusted while computing the present outstanding. Such payments were never intended to qualify as a statutory deposit for the purpose of appeal.

3.2. The respondents point out that Rs. 50 lakhs referred in Exts.P3 and P4 were paid even before S.A. No.40/2017 was filed, and after giving full credit for those amounts, the outstanding as on 31.08.2025 remains at Rs. 13,05,37,294.81/-. The petitioner cannot now recharacterise these payments



as a deposit under Section 18 of the SARFAESI Act.

3.3. It is further urged that the payments made under the OTS scheme cannot be relied on, as the OTS was revoked for default. Under the OTS terms, such payments stood appropriated, and the petitioner herself accepted the outstanding of Rs. 11,25,45,215/- as on 31.07.2024. The petitioner cannot, therefore, claim any benefit of those amounts towards the statutory pre-deposit. The respondents submit that Ext. P22 order was passed after considering the petitioner's argument that she had paid around Rs. 2 crores. Hence, it is an order on merits and cannot be reopened in supervisory jurisdiction.

3.4. It is stated that the DRAT in fact extended leniency by directing pre-deposit of only Rs. 1.57 crores based on the possession notice figure of 2015, though nearly ten years have passed and the dues have swelled to more than Rs. 13 crores. The petitioner cannot claim prejudice when such a concession was already granted. The respondents also highlight that the petitioner did not challenge Ext.P22 immediately, thereby acquiescing to the order, and only approached this Court after Ext. P23 appeal was dismissed.

3.5. The conduct of the petitioner is alleged to be an abuse of



process, as she has consistently used interim orders of the DRT and this Court to stall recovery proceedings since 2015, while enjoying the benefit of conditional stays. Payments made under such orders were appropriated only towards the debt and cannot be equated with statutory compliance under Section 18.

4. Heard Smt. K.A. Sanjeetha, the learned counsel for the petitioner and Sri. A.V. Thomas, learned Senior Counsel, instructed by Adv. Nidhi Sam Johns, for the first respondent.

5. The definitions of “debt” in the SARFAESI Act and the Recovery of Debts and Bankruptcy Act, 1993 (*hereinafter* “RDDB Act”) are extracted below:

“Section 2 (ha) of SARFAESI Act defines Debt as “debt” shall have the meaning assigned to it in clause (g) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and includes—

- (i) unpaid portion of the purchase price of any tangible asset given on hire or financial lease or conditional sale or under any other contract;*
- (ii) any right, title or interest on any intangible asset or licence or assignment of such intangible asset, which secures the obligation to pay any unpaid portion of the purchase price of such intangible asset or an obligation incurred or credit otherwise extended to enable any borrower to acquire the intangible asset or obtain licence of such asset;*



Section 2 (g) of the RDDB Act defines Debt as - “debt” means any liability (inclusive of interest) which is claimed as due from any person or a pooled investment vehicle as defined in clause (da) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956)] by a bank or a financial institution or by a consortium of banks or financial institutions during the course of any business activity undertaken by the bank or the financial institution or the consortium under any law for the time being in force, in cash or otherwise, whether secured or unsecured, or assigned, or whether payable under a decree or order of any civil court or any arbitration award or otherwise or under a mortgage and subsisting on, and legally recoverable on, the date of the application and includes any liability towards debt securities which remains unpaid in full or part after notice of ninety days served upon the borrower by the debenture trustee or any other authority in whose favour security interest is created for the benefit of holders of debt securities.”

6. Three High Courts, in the decisions enumerated in Table A below, have taken the view that interest accruing after the issuance of notice under Section 13(2) of the SARFAESI Act cannot be reckoned while computing the ‘debt due’ for the purpose of Section 18(1) of the SARFAESI Act.

TABLE A:

Sl. No	Name of the Case	Reasoning
1	Madras High Court (DB) in Mrs Mekala Raj v. DRAT Chennai (2017 SCC Online Mad. 16033)	The Court held that the statutory deposit under the second proviso to Section 18(1) SARFAESI must be reckoned with reference to the debt claimed in the Section 13(2) notice , and not by including future interest. “Reading of the proviso to Section 18 of the SARFAESI Act, 2002, makes it clear that appeal shall not be entertained, if a person aggrieved, deposits with the Appellate Tribunal, the amount of debt claimed by the secured creditors or determined by the Debt Recovery Tribunal, whichever is less and Section contemplates the amount claimed,



		<i>which is referable to the notice issued, under Section 13(2) of the SARFAESI Act, 2002 and it cannot be stretched to meet the amount accrued, after issuance of notice under Section 13(2) of the Act. By addition of interest on the amount claimed, Proviso has to be taken literal meaning and there cannot be any substitution as argued by the learned counsel for the second respondent/Tamil Nadu Mercantile Bank, Chennai."</i>
2	Chattisgarh High Court (DB) in Mohan Products Pvt. Ltd. v. SBI (W.A. No. 362/2019: MANU/CG/0390/2020)	The Court held that "debt due" in the second proviso to Section 18(1) means only the amount already payable and claimed in the Section 13(2) notice (principal + interest accrued till that date). Future or unaccrued interest after issuance of the notice cannot be treated as "debt due," since the provision refers to what is "claimed" as due, not what is "claimable." Including future interest would amount to rewriting the law. The Court, while deciding the pre-deposit issue, placed reliance on Mekala Raj v. Presiding Officer, DRAT (Madras HC), Sivakumar Textiles v. DRAT (Madras HC), and Poonam Manshani v. J&K Bank (Delhi HC), all of which held that the statutory deposit under the second proviso to Section 18(1) SARFAESI must be reckoned with reference to the debt claimed in the Section 13(2) notice, and not by including future interest. The Court also relied upon Narayana Chandra Ghosh v. UCO Bank (2011) 4 SCC 548, particularly para 10, which clarified that the deposit is linked to the "debt due" as stated in Section 13(2) demand. However, the Court expressly disagreed with the Bombay High Court's view in M/s MRB Roadconst Pvt. Ltd. v. Rupee Co-op Bank, which had treated "debt" as including future interest, holding that such an interpretation was inconsistent with the legislative intent to make the right of appeal real and not illusory.
3	Madras High Court (DB) in Sivakumar Textiles v. Debt Recovery Appellate Tribunal, Chennai & Ors. (AIR 2012 Madras 57)	"While the said proviso employs the words 'amount of debt due from the borrower as claimed by the secured creditors', it must necessarily relate back to the claim made by the secured creditor in the notice under Section 13(2). Otherwise, the legislature would have restricted the wording by using 'the amount of debt due from him', without including the further wording 'as claimed by the secured creditors'. In the event the amount of debt due from the borrower is alone mentioned in the proviso, such claim may be as per Section 13(2) notice or an amount that could have been mentioned under Section 13(4) or an amount that could have been claimed by the secured creditors while opposing an application for waiver. However, when the legislature had used the words 'the amount of debt due from the borrower as claimed by the secured creditor', it would have no other meaning except the amount claimed in the notice under Section 13(2)."
4	Delhi High Court (DB) in Poonam Manshani v. J and K Bank and Anr. (AIR 2010 Delhi 28)	"First of all, the Appellate Tribunal ignored the interest component and went by the amount claimed under the notice under Section 13(2). Secondly, the Appellate Tribunal was of the view that only 25% of the demanded amount be deposited by way of pre-deposit under Section 18. The third aspect of the matter, which was considered by the Appellate Tribunal, was that the amount of Rs 8.60 crores, which was recovered from the borrower, cannot be adjusted in favour of the petitioner, who is a guarantor inasmuch as, according to the Appellate Tribunal, the guarantor (the petitioner herein) would have to stand on her own legs. She cannot claim any advantage of the amount recovered by the Bank from the sale of one property of the borrower. 9. We are not interfering with the first two aspects of the Appellate Tribunal's consideration, but we find that insofar as the third aspect of



		<i>the matter is concerned, the Appellate Tribunal has misdirected itself.”</i>
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7. Three High Courts, in the decisions enumerated in *Table B* below, have taken the view that interest accruing after the issuance of notice under Section 13(2) of the SARFAESI Act is to be reckoned while computing the ‘debt due’ for the purpose of Section 18(1).

Table B:

Sl. No	Name of the Case	Reasoning
1	Kerala High Court (DB) in Union Bank of India v. R.Dhanalakshmi (W.A No. 233/2020)	Relying on MRB Roadconst and Sekar Stores, Home Mart and others, it has reasoned that <i>“when the second proviso to Section 18(1) of Act, 2002 clearly specifies that 50% of the amount of debt due from the borrower, as claimed by the secured creditors, includes interest, as defined so under Section 2(ha) of Act, 2002 read with Section 2(g) of Act, 1993, and the language is so plain, there is no room for any further interpretation as to the quantum of the amount to be arrived at while directing to make the pre-deposit. That apart, when the interest rate is specified in the notice along with the consolidated figure contained in the claim, it is a continuing debt due till the entire amount, inclusive of the interest, is paid, and there is no indication at all in the provision in question to exclude the interest from the debt due.”</i> The Division Bench held that “debt due” under Section 18(1) SARFAESI is defined with reference to Section 2(g) RDDB Act, which expressly includes interest. The pre-deposit is to be computed not only on the principal and accrued interest shown in the Section 13(2) notice but also on the further interest accrued thereon until the date of filing the appeal before DRAT. Otherwise, the statutory mandate would be defeated and the secured creditor’s claim artificially frozen at the 13(2) figure.
2	Bombay High Court (DB) in M/s MRB Roadconst Pvt. Limited v. Rupee Co-op Bank Limited (2016 2 AIR BomR 256)	The Court held that under Section 18(1) SARFAESI, “debt” as defined in Section 2(ha) SARFAESI, read with Section 2(g) of the RDDB Act, expressly includes interest. Therefore, the pre-deposit is to be calculated not only on the principal sum in the Section 13(2) notice but also on the interest accrued till the date of filing of the appeal. If the 13(2) notice itself claims future interest, that also forms part of the debt due. To hold otherwise would contradict the plain statutory language. DRAT was correct in considering outstanding dues (principal + interest)



		as on the appeal date, after giving credit for payments already made. <i>“This would not only include the amount mentioned in the section 13(2) notice but also interest accrued thereon till the date of filing of the appeal under section 18 of the SARFAESI Act. To our mind, this is the only interpretation that is possible of the 2nd proviso to section 18 of the SARFAESI Act.”</i>
3	Madras High Court (DB) in Sekar Stores Home Mart and Ors. v. The Authorized Officer, Pridhvi Asset Reconstruction & Securitisation Company Ltd. (MANU/TN/6032/2018)	The Division Bench held that for the purpose of computing pre-deposit under Section 18(1) SARFAESI, the term “debt”—defined in Section 2(g) RDBFI Act as “any liability (inclusive of interest)”—must be given its full meaning. Consequently, the “amount of debt due” includes not only the sum quantified in the Section 13(2) notice but also the future interest accrued till the date of filing the appeal. To restrict the deposit only to the figure in the Section 13(2) notice would violate the plain and unambiguous language of Section 18(1). <i>“For the view which I propose to take, I am supported by a Division Bench Judgment of Bombay High Court in M.R.B. Road Construct. Pvt. Ltd. v. Rupee Co-op Bank Ltd. Para 17 to 19 of the Judgment, which is relevant for the present purposes, reads as under:--</i> <i>“17. On an ex-facie reading of the said definition, it is clear that the word “debt” has been given an extremely wide meaning and means any liability (inclusive of interest) which is claimed as due from any person by a bank or a financial institution during the course of any business activity undertaken by such bank or financial institution under any law for the time being in force, otherwise, whether secured or unsecured, or assigned, or whether payable under a decree or order of any civil court or any arbitration award or otherwise or under a mortgage and subsisting on, and legally recoverable on, the date of the application.”</i> <i>11. On a perusal of Section 13(2) notices dated 11.01.2013, it could be seen that the respondent-Bank had claimed a sum of Rs. 11.72 crores as on 31.03.2012 together with interest. The petitioners have not taken into consideration the interest payable by them towards the loan amount. Even after a lapse of six years, the petitioners have not discharged their liability in entirety.</i> <i>12. The ratio laid down by the Division Bench of the Bombay High Court and Allahabad High Court applies to the facts and circumstances of the present case. Therefore, the orders passed by the Debt Recovery Appellate Tribunal directing the petitioners to make a pre-deposit of 25% of the amount claimed in Section 13(2) notices cannot be held as onerous or unreasonable.”</i>

8. While the learned counsel for the petitioner placed reliance on the decisions referred to in Table A, the learned counsel for the respondent,



on the other hand, relied upon the judgments enumerated in *Table B*.

9. The learned counsel for the petitioner, Smt. K. Sanjeetha argues that though the Division Bench of this Court in ***Union Bank of India v. R. Dhanalakshmi*** (W.A. No. 233/2020) reversed the decision of the single bench, which held that future interest after the issuance of Section 13(2) notice cannot be reckoned, the Division Bench did so, relying on ***M/s MRB Roadconst Pvt. Limited v. Rupee Co-op Bank Limited*** (2016 2 AIR BomR 256) judgment of the Bombay High Court. The learned counsel argued that the judgment of the Supreme Court in ***Narayana Chandra Ghosh v. UCO Bank*** (2011) 4 SCC 548, though referred to was not discussed in the Division Bench judgment of this Court, and therefore the same has not correctly laid down the law. It is argued that the judgment of the Madras High Court in ***Sivakumar Textiles v. Debt Recovery Appellate Tribunal, Chennai & Ors.*** (AIR 2012 Madras 57), and that of the ***Mohan Products Pvt. Ltd. v. SBI*** (MANU/CG/0390/2020) of the Chhattisgarh High Court had considered all the relevant judgments and laid down the correct law, holding that interest after the issuance of notice under Section 13(2) cannot be counted.

10. Senior Counsel Sri. A.V. Thomas, for the 1st respondent, argued that the issue is no longer res integra as the Apex Court decided in ***Sidha***

***Neelkanth Paper Industries Pvt Limited v. Prudent ARC Ltd.*** (2023 SCC Online

SC 12) as follows:

“13. As per Section 2 (ha) of the SARFAESI Act, “debt” shall have the same meaning assigned to it in clause (g) of Section 2 of the Act, 1933. As per 2(g) of the Act 1933, “debt” means any liability inclusive of interest which is claimed as due from any person by a bank or a financial institution during the course of any business activity undertaken by the bank or the financial institution, in cash or otherwise, whether secured or unsecured, or assigned, or whether payable under a decree or order of any civil court or any arbitration award or otherwise or under a mortgage and subsisting on, and legally recoverable on the date of the application. That the “debt” means any liability, inclusive of interest.

As per [Section 18](#) of the SARFAESI Act, any person aggrieved by any order made by the DRT under [Section 17](#) may prefer an appeal within thirty days to an appellate Tribunal (DRAT) from the date of receipt of the order of the DRT. Second proviso to [section 18](#) provides that no appeal shall be entertained unless the “borrower” has deposited with the Appellate Tribunal fifty percent of the amount of “debt due” from him, as claimed by the secured creditors or determined by the DRT, whichever is less and only and only then, an appeal under [Section 18](#) of the SARFAESI Act is permissible against the order passed by the DRT under [Section 17](#) of the SARFAESI Act. Under [Section 17](#), the scope of enquiry is limited to the steps taken under [Section 13\(4\)](#) against the secured assets. Therefore, whatever amount is mentioned in the notice under [Section 13\(2\)](#) of the SARFAESI Act, in case steps taken under [Section 13\(2\)/13\(4\)](#) against the secured assets are under challenge before the DRT, will be the ‘debt due’ within the meaning of the proviso to [Section 18](#) of the SARFAESI Act. In case of a challenge to the sale of the secured assets, the amount mentioned in the sale certificate will have to be considered while determining the amount of pre-deposit under [Section 18](#) of the SARFAESI Act. However, in a case where both are under challenge, namely, steps taken under [Section 13\(4\)](#) against the secured assets and also the auction sale of the secured assets, in that case, the “debt due” shall mean any liability (inclusive of interest) which is claimed as due from any person, whichever is higher.



14. In a case where the borrower also challenges the auction sale and does not accept the same and also challenges the steps taken under Section 13(2)/13(4) of the SARFAESI Act with respect to secured assets, the borrower has to deposit 50% of the amount claimed by the secured creditor along with interest as per Section 2(g) of the Act, 1993 and as per Section 2(g), “debt” means any liability inclusive of interest which is claimed as due from any person.

17.the borrower has to deposit 50% of the amount of “debt due” as claimed by the bank/financial institution/assignee along with interest as claimed in the notice under [Section 13\(2\)](#) of the SARFAESI Act and the borrower is not entitled to claim adjustment/appropriation of the amount realised by selling the secured properties and deposited by the auction purchaser when the auction sale is also under challenge.”

11. Following the judgment of the Hon’ble Supreme Court in ***Sidha Neelkanth Papers Industries Pvt. Ltd.*** (supra), three High Courts have subsequently applied and followed the said principle while interpreting the expression “debt due” under Section 18(1) of the SARFAESI Act. The Delhi High Court in ***Golden Netsoft Pvt. Ltd. v. HDFC Bank Ltd.*** (MANU/DE/2299/2024), the Gujarat High Court in ***Shree Ram Rayon v. Authorised Officer and Chief Manager, Tamilnad Mercantile Bank Ltd.*** (MANU/GJ/0239/2023), and the Bombay High Court in ***Sony Mony Developers Pvt. Ltd. v. Asset Care and Reconstruction Enterprises*** (MANU/MH/8082/2024) examined the issue and affirmed the broader interpretation of “debt due” adopted in the decision of the Apex Court in ***Sidha Neelkanth*** (supra).

12. Upon a cumulative reading of the statutory provisions and the above precedents, I am of the view that the decisions in ***Sidha Neelkanth Papers Industries Pvt. Ltd.*** (Supra) and the subsequent judgments that relied and followed ***Sidha Neelkanth***, ***Golden Netsoft Pvt. Ltd. v. HDFC Bank Ltd.***,



Shree Ram Rayon v. Tamilnad Mercantile Bank Ltd., and Sony Mony Developers Pvt. Ltd. v. Asset Care and Reconstruction Enterprises - consistently affirm that the expression “debt due” under the proviso to Section 18(1) of the SARFAESI Act necessarily includes the entire liability claimed by the secured creditor, inclusive of accrued and future interest up to the date of appeal. The term “debt”, as defined in Section 2(g) of the RDDB Act, is of the widest amplitude, covering any liability inclusive of interest claimed as due from the borrower, and when read with Section 18(1) of the SARFAESI Act, it mandates that the pre-deposit must reflect the borrower’s entire subsisting liability, comprising both principal and interest, either as claimed by the secured creditor or as determined by the DRT, whichever is less. There is no exclusion in the statute of future or accrued interest, and, therefore, the computation of “debt due” must necessarily reflect the total liability as on the date of filing of the appeal before the DRAT and not be confined to the amount specified in the Section 13(2) notice. Such an interpretation alone aligns with the legislative intent that a borrower approaching the appellate forum must do so bona fide, with the deposit reflecting the true and continuing debt, inclusive of interest accrued till that date.

13. The judgment of the Apex Court in ***Sidha Neelkanth*** (supra) does not exclude such interest; rather, when read as a whole, it supports the



computation of “debt due” as on the date of appeal, encompassing both principal and accrued interest. Thus, the statutory definition and the ratio of ***Sidha Neelkanth*** (supra), firmly establish that for purposes of the mandatory pre-deposit under Section 18(1), the “debt due” must include not merely the sum mentioned in the Section 13(2) notice but also the interest accrued thereon till the date of filing of the appeal, as the borrower’s liability under the Act is a continuing one until full discharge of the debt.

14. In ***Sidha Neelkanth*** (supra), the Hon’ble Supreme Court had considered and reversed the Delhi High Court Judgment, ***Prudent ARC Limited v. Sidha Neelkanth Paper Industries and Ors*** (MANU/DE/2284/2020), insofar as it had held that the “debt due” does not include future interest. In the above judgment of the Delhi High Court, it is held that the borrower has to deposit 50% of the amount of “debt due” as claimed by the bank/financial institution/assignee and that while computing the “amount of debt due”, the amount of the debt claimed by the secured creditor in its notice issued under Section 13 (2) of the Act, shall be relevant and any future interest need not be taken into consideration for purposes of determining, “the amount of debt due as claimed by the secured creditor” in cases where the DRT has not determined the liability of a borrower. The Hon’ble Supreme Court has therefore held in ***Sidha Neelkanth*** (supra) that the Delhi High Court has erred



in excluding the amount payable towards interest while considering the “debt due”. As per Section 2 (g) of the Act, 1993, “debt” means liability inclusive of interest as claimed by the bank/financial institution.

15. Having regard to the statutory definition and the ratio in *Sidha Neelkanth* (supra) and other precedents, the term ‘debt due’ under the proviso to S.18(1) of the Act necessarily includes the interest accruing even after the issuance of notice under S.13(2) of the Act.

16. In view of the above conclusion and noticing that the amount directed to be paid does not exceed 50% of the debt, no interference is warranted with the orders impugned in this original petition.

However, as a measure of indulgence, three weeks’ time from today is granted to the petitioner, as a last chance, to comply with the deposit directed by the Appellate Tribunal on 07.04.2025. Needless to say that if the deposit is made as directed above, the appeal shall be heard on merits and appropriate orders will be passed by the Tribunal.

Subject to the above, the Original Petition is dismissed.

**Sd/- MOHAMMED NIAS C.P.
JUDGE**

okb

APPENDIX OF OP (DRT) 183/2025

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE DEMAND NOTICE DATED 27/02/2015 ISSUED BY THE SOUTH INDIAN BANK, NILAMBUR BRANCH.
Exhibit P2	TRUE COPY OF THE POSSESSION NOTICE DATED 18/08/2015 ISSUED BY THE SOUTH INDIAN BANK, NILAMBUR BRANCH.
Exhibit P3	TRUE COPY OF THE STATEMENT OF ACCOUNT DATED 17/04/2018 ISSUED BY THE SOUTH INDIAN BANK, NILAMBUR BRANCH SHOWING THE DEPOSIT OF RS.5 LAKHS.
Exhibit P4	TRUE COPY OF THE STATEMENT OF ACCOUNT DATED 02/03/2017 ISSUED BY THE SOUTH INDIAN BANK, NILAMBUR BRANCH SHOWING THE DEPOSIT OF RS.45 LAKHS.
Exhibit P5	TRUE COPY OF THE SA NO.40/2017 DATED 03/03/2017 (WITHOUT ANNEXURES) FILED BEFORE THE DRT-I, ERNAKULAM.
Exhibit P6	TRUE COPY OF THE INTERIM ORDER DATED 09/03/2017 IN SA NO.40/2017 OF DRT-I, ERNAKULAM.
Exhibit P7	TRUE COPY OF THE STATEMENT OF ACCOUNTS DATED 20/03/2017 ISSUED BY THE BANK SHOWING THE DEPOSIT OF RS.21,00,000/- ON 15/3/2017.
Exhibit P8	TRUE COPY OF THE DEMAND DRAFT NO.582598 DATED 20/3/2017 FOR RS.29,00,000/- IN THE NAME OF THE BANK.
Exhibit P9	TRUE COPY OF THE DEMAND DRAFT NO.000835 DATED 3/4/2017 FOR RS.15,00,000/- IN THE NAME OF BANK.
Exhibit P10	TRUE COPY OF THE DEMAND DRAFT NO.004615 DATED 19/4/2017 FOR RS.35,00,000/- IN THE NAME OF BANK.
Exhibit P11	TRUE COPY OF THE ORDER DATED 29/09/2023 OF DRT-I, ERNAKULAM IN SA NO.40/2017.
Exhibit P12	TRUE COPY OF THE APPEAL AIR NO.1561/2023 DATED 19/10/2023 (WITHOUT DOCUMENTS) ON THE FILE OF THE DRAT, CHENNAI.
Exhibit P13	TRUE COPY OF THE STAY PETITION IN AIR NO.1561/2023 DATED 19/10/2023 ON THE FILE



OF DRAT, CHENNAI.

- Exhibit P14 TRUE COPY OF THE IA NO.499/2023 IN AIR NO.1561/2023 TO WAIVE PRE-DEPOSIT ON THE FILE OF DRAT, CHENNAI.
- Exhibit P15 TRUE COPY OF THE DD NO.002438 DATED 25/01/2024 FOR RS.10,00,000/-.
- Exhibit P16 TRUE COPY OF THE DD NO.000986 DATED 30/01/2024 FOR RS.15,00,000/-.
- Exhibit P17 TRUE COPY OF THE RECEIPT DATED 14/03/2024 ISSUED BY THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD SHOWING THE TRANSFER OF RS.20 LAKHS TO THE 1ST RESPONDENT.
- Exhibit P18 TRUE COPY OF THE RECEIPT DATED 22/04/2024 ISSUED BY THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD SHOWING THE TRANSFER OF RS.10 LAKHS TO THE 1ST RESPONDENT.
- Exhibit P19 TRUE COPY OF THE RECEIPT DATED 22/04/2024 ISSUED BY THE AXIS BANK SHOWING THE TRANSFER OF RS.10 LAKHS TO THE 1ST RESPONDENT.
- Exhibit P20 TRUE COPY OF THE CHEQUE DATED 31/05/2024 OF AXIS BANK LTD SHOWING THE TRANSFER OF RS.10 LAKHS TO THE 1ST RESPONDENT.
- Exhibit P21 TRUE COPY OF THE ADDITIONAL AFFIDAVIT DATED 13/02/2024 IN WAIVER APPLICATION IA NO.499/2023 IN APPEAL AIR NO.1561/2023 (WITHOUT ANNEXURES) .
- Exhibit P22 TRUE COPY OF THE ORDER DATED 07/04/2025 IN I.A.NO.499/2023 IN AIR NO. 1561/2023 OF THE DRAT, CHENNAI.
- Exhibit P23 TRUE COPY OF THE ORDER DATED 26/05/2025 IN IA NO.499/2023 IN APPEAL AIR NO.1561/2023 OF THE DRAT, CHENNAI.

RESPONDENT EXHIBITS

- Exhibit R1(a) TRUE COPY OF THE OTS LETTER DATED 13.09.2024
- Exhibit R1(b) TRUE COPY OF JUDGMENT DATED 09.10.2023 IN OP(DRT) 403 OF 2023 OF THIS COURT
- Exhibit R1(c) TRUE COPY OF JUDGMENT DATED 31.10.2023 IN OP(DRT) 456 OF 2023 OF THIS COURT
- Exhibit R1(d) TRUE COPY OF ORDER DATED 15.01.2024 IN OP(DRT) 456 OF 2023 OF THIS COURT