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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 16123/2025**

AXIS BANK LIMITED

.....Petitioner

Through: Mr. Satvik Varma, Sr. Adv., Mr. Manmeet Singh, Mr. Alok Shanker, Mr. Anugrah Robin Frey, Mr. Shantanu Parmar, Mr. Ajay Raj and Mr. Balram, Adv.

versus

NATIONAL COMMISSION FOR SCHEDULED TRIBES & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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16.10.2025

CM APPLs.66013/2025, 66014/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

W.P.(C) 16123/2025 and CM APPL.66012/2025 (Stay)

3. The present petition has been filed by the petitioner seeking that respondent no.1/National Commission for Scheduled Tribes be restrained from proceeding with any investigation, inquiry or action pursuant to the representation dated 10.02.2025, filed by respondent no. 2 before the respondent no. 1. The petitioner also seeks quashing and setting aside of the Summons dated 29.07.2025 and 06.10.2025; an order dated 22.09.2025, issued against the petitioner by the respondent no. 1 and also any incidental proceedings arising therefrom.
4. The background of the matter is that in 2013, a credit facility to the tune of Rs. 16,68,99,098.28/- was sanctioned in favour of the respondent



no.3/Sundev Appliances Ltd (borrower) by the petitioner. As a security for the said facility, an equitable mortgage dated 12.12.2013 was created by the promoters of the respondent no.3 (mortgagors) in respect of a property situated at Survey No. 32, Hissa No. 2, Vasai, Thane, Maharashtra (hereinafter referred as the “subject property”).

5. However, on account of non-payment of the credit facility, on 28.10.2017, the account of respondent no.3 was declared a Non-Performing Asset (NPA) by the petitioner. Consequently, it is stated that the petitioner invoked Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as “the SARFAESI Act”) to enforce its security interest and take possession of the mortgaged property.

6. Subsequently, the Court of District Magistrate, Palghar in Securitization Application no. 15/2024 (preferred by the petitioner under Section 14 of the SARFAESI Act) *vide* an order dated 19.01.2024 permitted the petitioner to obtain physical possession of the subject property. In furtherance of the aforesaid, the Tehsildar and Executive Magistrate, Vasai (Revenue Branch) issued a notice dated 11.07.2024 bearing no. Revenue/Room-1/t-Criminal/Kavi-149/2024, intimating that in view of the aforementioned order dated 19.01.2024, the possession of the subject property shall be handed over to the petitioner between 08.08.2024 and 09.08.2024.

7. In the meantime, allegedly much after the petitioner took requisite steps *viz.* enforcement of the aforementioned security, respondent no.2, instituted Civil Suit No. 4/2025 before the Court of Civil Judge, Vasai against the petitioner and others *inter alia* seeking a permanent injunction



against the petitioner from dealing with the subject property and a declaration that the attachment of the subject property without prior permission of the landowners is illegal. The reliefs sought in the aforementioned civil suit primarily premised upon a contention that by virtue of an Agreement to Sell dated 27.07.2016, the ownership of the subject property solely vested with the respondent no.2 and the petitioner without proper due diligence into the ownership rights of the borrowers and mortgagors (respondent nos. 3 to 6), accepted the subject property as security against the aforementioned loan.

8. It has been brought out that the said civil suit is currently pending and no interim order has been passed therein. In aforesaid background, the respondent no.2 also preferred a representation dated 10.02.2025 under Sections 3(1)(f) and (g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“Atrocities Act”) alleging *inter alia* commission of atrocities against him by the petitioner.

9. Upon receipt of the aforesaid complaint, respondent no. 1 issued a Sitting Notice dated 18.07.2025, fixing a sitting/hearing on 22.07.2025. In the said notice the respondent no.1 called upon the Managing Director (MD) and CEO of the petitioner to appear “in person” before the respondent no.1 on 22.07.2025. However, it is the case of the petitioner that the said notice was only received by the petitioner on 25.07.2025 i.e., three days after the sitting/hearing was scheduled to take place before the respondent no.1.

10. Consequently, summons dated 29.07.2025 were issued by respondent no.1, calling upon the MD and the CEO of the petitioner to personally appear before respondent no.1 on 18.08.2025, failing which action will be undertaken in accordance with provisions contained in Order XVI Rule 12



of CPC, 1908.

11. In response to the said notice and summons, the petitioner addressed a letter dated 01.08.2025 to the respondent no.1 seeking withdrawal/setting aside of the said notice and summon. Further, on 18.08.2025, the representatives of the petitioner appeared before respondent no. 1 and submitted that (i) a copy of the representation dated 10.02.2025 was not provided to the petitioner; (ii) the Mortgage was validly created, and upon default by the borrower, the petitioner became entitled to enforce its security rights under the SARFAESI Act; (iii) Respondent no. 2 has no *locus*, as he is neither the owner nor in possession of the subject property; (iv) Respondent no. 2 has suppressed material facts in its representation, including pendency of two civil suits and therefore the representation and investigation pursuant thereto are wholly without jurisdiction.

12. It is submitted that instead of taking cognizance of the aforementioned request/s, the respondent no. 1 on 18.08.2025 *inter-ali* directed the Collector and District Magistrate, Palghar and Superintendent of Police, Palghar to submit a status report in the matter.

13. Thereafter, respondent no.1 passed an order dated 22.09.2025 whereby it has been directed that an action report be sent to respondent no. 1 within 15 days, and *inter alia* stated that no action should be taken by petitioner pertaining to the auctioning of the subject property until complete clarity is obtained *qua* the ownership rights of tribal persons.

14. Attention is also drawn to the fact that summons have again been issued by the respondent no.1 on 06.10.2025 against the MD and CEO of the petitioner for a hearing scheduled on 16.10.2025.

15. In the above context, it has been submitted on behalf of the petitioner



that the impugned action of the respondent no.1, including issuance of sitting notice and summons are without jurisdiction and merit; and constitutes gross abuse of the process.

16. Issue notice to the respondents, through all permissible modes including electronically, returnable for the next date of hearing.

17. Let reply be filed within a period of 4 weeks from today. Rejoinder thereto, if any, be filed within a period of 2 weeks thereafter.

18. *Prima facie*, in the context of the facts of the present case Sections 3(1)(f) and (g) of the Atrocities Act are not attracted inasmuch the same cannot be invoked to preclude/ prevent the exercise of mortgage right/security interest of the petitioner. Also, the proceedings pending before respondent no.1, particularly, the summons issued therein which requires the MD & CEO of the petitioner to appear before the respondent no.1, are without jurisdiction.

19. No rationale has been recorded for requiring senior officials of the petitioner to appear personally before the respondent no.1.

20. A coordinate Bench of this Court in ***State Bank of India and Anr. v. National Commission for Scheduled Castes and Anr.***¹, by placing reliance on judgment rendered by the Supreme Court in ***State of Uttar Pradesh and Ors. Vs Jasvir Singh and Ors.*** (2011) 4 SCC 288 has observed as under –

“4. It is apparent from the above that although, the Commission has the powers to summon and enforce the attendance of any person from any part of India and examining him on oath, the said powers are for the specific purpose of enquiring into a complaint or for taking evidence. Thus, the Commission needs to be circumspect while exercising those powers and ensure that the same are used only for the purpose of performing their functions.

¹vide an order dated 01.08.2017 passed in W.P(C) 3471/2013



5. Undisputedly, senior officers of the petitioner bank or for that matter any other organisation can be summoned by the Commission, provided that a need is felt for examining those officers for the purpose of enquiry. Such summons to senior most officers or heads of organisations cannot be issued as matter of routine without considering as to whether their presence is necessary for the inquiry/investigation.

6. The Supreme Court in several cases has deprecated the practice of Courts and other Tribunals to issue summons to senior officers without examining the necessity of requiring their presence. In the case of State of Uttar Pradesh and Ors. v. Jasvir Singh and Ors.: (2011) 4 SCC 288, the Supreme Court had, in the context of summoning of officers in writ petitions, observed as under:-

“16. The normal procedure in writ petitions is to hear the parties through their counsel who are instructed in the matter, and decide them by examining the pleadings /affidavit /evidence /documents /material. Where the Court seeks any information about the compliance with any of its directions, it is furnished by affidavits or reports supported by relevant documents. Requiring the presence of the senior officers of the Government in court should be as a last resort, in rare and exceptional cases, where such presence is absolutely necessary, as for example, where it is necessary to seek assistance in explaining a complex policy or technical issues, which the counsel is not able to explain properly. The Court may also require personal attendance of the officers, where it finds that any officer is deliberately or with ulterior motives withholding any specific information required by the Court which he is legally bound to provide or has misrepresented or suppressed the correct position.” ”

21. Accordingly, considering the judgment rendered by the Supreme Court in **State of Uttar Pradesh and Ors. Vs Jasvir Singh and Ors.** (supra) and considering the factual conspectus, there shall be stay of the impugned proceedings and the summons dated 29.07.2025 and 06.10.2025 issued by respondent no.1, till the next date of hearing.

22. List on 05.02.2026.

SACHIN DATTA, J

OCTOBER 16, 2025/at/sl