

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case No. WP(C) No. 2274/2025

Reserved on: 20.11.2025

Pronounced on:-09.12.2025

Uploaded on:-09.12.2025

Whether the operative part or
full judgment is pronounced

M/s Gogi Motor Store

.....Petitioner(s)

Through: Mr. D.S Chouhan, Advocate
Mr. Ashish Sharma, Advocate

Vs

Citizen's Co-operative Bank
Ltd. And anr

..... Respondent(s)

Through: Mr. R.K Jain, Sr. Advocate with
Mr. Paramveer Singh, Advocate
Mr. Ajay Bakshi, Advocate

**CORAM: HON'BLE MRS.JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**

(JUDGMENT)

Shahzad Azeem-J

1. The petitioner has invoked the extraordinary writ jurisdiction of this Court, thereby seeking quashment of Tender-cum-Auction Notice dated 17.06.2025 issued by respondent Nos. 1 & 2 and further seeking quashment of any consequential action by the respondents including the proceedings initiated in terms of

Section 13 (4) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [the SARFAESI Act]. The petitioner also seeks a direction upon respondents No. 1 & 2 not to proceed against the secured assets in the shape of land falling under Khasra No. 786 min, 788 min, 790 min and 130 min respectively measuring 2400 sq. ft along with residential house, situated at South X Housing Colony, Channi Kamala, Dilli Extension, Trikuta Nagar, Jammu.

FACTS

2. The facts in brief, are that the petitioner has availed a Cash Credit Limit (CCL) to the tune of Rs. 49.00 lacs from the respondent-Bank which came to be sanctioned vide letter No. Adm/Loans/4207-08 dated 23.07.2019 and as a primary security, the petitioner has mortgaged his property, comprising of residential house constructed over plot No. 18, measuring 40 × 60 (2400 sq. ft) situated at South X Housing Colony, Channi Kamala, Deeli Extension Trikuta Nagar, Jammu falling under Khasra No. 786 min, 788 min, 790 min and 130 min, respectively. Although, for some time, the petitioner said to have maintained his loan account till September, 2022, however,

thereafter, it had rendered irregular, finally resulted in classification of loan account as NPA on 03.05.2023.

3. However, thereafter, the petitioner when failed to maintain the account and same came to be classified as NPA, the proceedings under the provisions of SARFAESI Act initiated which, finally culminated in issuance of Tender-cum-Auction Notice dated 17.06.2025 which came to be published in the newspaper in terms of Rule 8 (6) of Security Interest (Enforcement) Rules, 2002 [Rules of 2002].

4. The respondent No. 3 came to be declared as successful bidder in the auction process and he said to have deposited by now the entire bid amount to the tune of Rs. 71,02,000/-, however, same could not be fructified but for the present petition.

5. It was in the above backdrop, Mr. Mayank Gupta, who was declared as successful bidder and said to have deposited the entire bid amount came to be impleaded as respondent No. 3, being aggrieved and necessary party, vide order dated 28.10.2025.

SUBMISSIONS

6. The case set up by the petitioner is that he had availed a Cash Credit Limit (CCL) of Rs. 49,00,000/- from the respondent-Bank. It is submitted that the petitioner has already paid approximately Rs. 2,00,00,000/- towards interest and principal of the loan amount and outstanding liability is only Rs. 19,80,300/-. However, respondent Nos. 1 & 2 issued a demand notice under Section 13(2) of the SARFAESI Act raising demand for an amount of Rs. 53,43,639/-, therefore, the petitioner said to have deposited approximately Rs. 34,00,000/-, thereby reducing the outstanding to Rs. 19,76,800/-.

7. The grievance of the petitioner is that despite substantial repayment of loan amount, the respondents have issued an auction notice dated 03.04.2025 proposing the auction of the residential house, measuring 40' × 60' (2400 sq. ft.), situate at South X Housing Colony, Channi Kamala, Dilli Extension, Trikuta Nagar, Jammu. It is further submitted that even after issuance of the impugned auction notice, the petitioner has deposited Rs.2,00,000/- on 25.06.2025, Rs.1,00,000/- on 21.07.2025, and Rs.1,36,000/- on 23.07.2025, respectively, aggregate of which comes to Rs. 4,36,000/-, and the Bank accepted without any protest. According to the petitioner, the

Bank officials had verbally assured him that upon making further payments, the CCL account would be restructured to Rs. 19,00,000/- and that the SARFAESI proceedings would not be pursued. Contrary to this assurance, the respondents have insisted on proceeding with the auction. The petitioner submits that the respondents are attempting to auction a residential house valued at approximately Rs. 2 crores for recovery of an amount of only Rs.19,80,300/-, despite the petitioner's substantial repayments and continued cooperation. The petitioner also submits that he holds the shares worth Rs.5,00,000/- of the respondent-Bank, but said shares have neither been encashed nor any interest/dividend paid thereon.

8. Learned counsel appearing for the petitioner also canvassed at bar that the notices have not been served and also valuation of the property is not got properly done, therefore, action of the respondent-Bank is bad in law. It is also argued that once, the amount towards the outstanding liability is accepted by the Bank, in that event, action under the SARFAESI Act is not maintainable.

9. Per contra, respondent Nos. 1 and 2 have filed detailed objections, wherein it has been stated that the respondent-Bank had earlier issued a notice dated 06.05.2023 requesting the petitioner to regularize his account, failing which proceedings

under the SARFAESI Act would be initiated. The petitioner, however, did not respond. It is submitted that thereafter, upon the petitioner's account was classified as NPA, the respondent-Bank issued a notice dated 20.07.2023 under Section 13(2) of the SARFAESI Act calling upon the petitioner to repay amount of Rs. 53,43,639/- along with further interest and charges, within 60 days. Despite receipt of the said notice, the petitioner failed to comply.

10. The respondents have further submitted that after expiry of statutory period and on receiving no representation, the Bank took symbolic possession of the secured assets, and a possession notice was also published in the newspaper on 04.01.2024, granting the petitioner 30 days' time to clear the outstanding dues of Rs. 53,43,639/- along with interest. The petitioner again failed to repay the outstanding amount.

11. It is further urged that upon completion of necessary formalities, the District Magistrate, Jammu, vide order dated 16.02.2024, directed the Tehsildar, Jammu South, to take possession of the mortgaged property. The petitioner was informed of the said order vide communication dated 23.02.2024, passed under Section 14 of SARFAESI Act but he did not turn up. Consequently, the Bank initiated steps to take physical possession of the property, and a notice dated 28.03.2024 was

served upon the petitioner granting further time. As the petitioner still failed to clear the dues, the mortgaged property was put to auction vide notice dated 16.12.2024. As no bidders had come forward, another tender notice was issued on 03.04.2025, but again no bid was received.

12. The learned counsel for the respondent-Bank submits that during the pendency of the auction process, the petitioner deposited an amount of Rs. 35,00,000/- with the Bank and requested renewal of the Cash Credit facility to the extent of Rs. 19,00,000/-. The said request, however, was rejected by the Head Office, and the petitioner was advised to submit requisite documents for renewal and to deposit the overdue amount of Rs. 4,48,908/- calculated up to 03.06.2025 within two to three days. As the petitioner failed to comply, the respondent-Bank again issued a tender notice for sale of the mortgaged property on 17.06.2025, published in the two newspapers and same is subject matter of challenge in the present petition. In the said auction process, one bidder, namely, Mayank Gupta, was declared the successful bidder.

13. Respondent No. 3, Mayank Gupta, a successful bidder in the auction process, has also filed objections.

14. Learned counsel for respondent No. 3 submits that the petitioner has deliberately suppressed material facts, including

that respondent No. 3 was declared the successful bidder in the auction and has deposited the entire bid amount in accordance with the terms of the auction notice. It is submitted that the petitioner has filed the writ petition without impleading respondent No. 3 and obtained an interim order, causing serious prejudice to his rights.

15. Learned counsel for respondent No. 3 submits that as per settled legal position, once auction notice is published, the right of the borrower to redeem the secured asset extinguishes, therefore, writ petition being not maintainable, hence, prayed for dismissal of the same.

ANALYSIS

16. Having considered the submissions made at bar, grounds raised in the petition and objections filed by the respondents, the grievance of the petitioner fundamentally is directed against the action of the respondent-Bank taken in terms of Section 13 (8) of the SARFAESI Act, whereby Tender-cum-Auction Notice dated 17.06.2025 came to be issued. Therefore, in case once challenge to the auction notice survives the scrutiny of law, then the other peripheral pleas shall be gone into.

17. While navigating through the record, it is seen that on being loan account turned irregular and despite being the petitioner was informed to regularize it, he failed to do so as such, account has been classified as NPA. However, on finding no response from the petitioner, the respondent-Bank has issued demand notice under Section 13 (2) followed by notice in terms of Section 13 (4) of the SARFAESI Act, read with Rule 8 of Rules of 2002 informing the petitioner to redeem the secured assets, lest the action is taken in terms of Section 13 (8) of the SARFAESI Act.

18. Notwithstanding the proceedings in above terms conforming to the provisions of the SARFAESI Act, the petitioner did not comply, thereby compelling the respondent-Bank to resort to Section 14 of the SARFAESI Act and accordingly, the petitioner has been intimated vide letter dated 23.02.2024 regarding the orders passed by the Magistrate, however, still the petitioner has shown cold shoulders and did not turn up as a result, notice dated 28.03.2024 came to be issued and published in the newspaper for taking over the secured assets.

19. Finally, when all the steps as per the provisions of the SARFAESI Act taken by the respondent-Bank to realize the outstanding loan amount did not yield any result, the bank left with no other option, but to go for the auction/sale of the secured assets, to be effected by inviting tender from public by holding public auction.

20. Accordingly, Tender-cum-Auction Notice came to be issued on 16.12.2024, which was published in two newspapers but no response was received, therefore, second time, tender Notice came to be issued on 03.04.2025 which also met with similar fate. However, meanwhile, the petitioner was again asked to deposit overdue amount for reduction of Credit Limit, otherwise, the bank would again go for public auction. This time also, the petitioner failed to deposit the amount, therefore, the bank was compelled to issue Tender-cum-Auction Notice on 17.06.2025 which came to be published in two daily local papers, edition dated 18.06.2025.

21. In the auction proceedings, respondent No. 3, namely, Mayank Gupta has been declared as successful bidder and by now, has deposited the entire bid amount of Rs. 71,02,000/- but

meanwhile, the petitioner has filed the instant writ petition without impleading the successful bidder namely, Mayank Gupta as respondent.

22. Although the petitioner has made a half hearted attempt to impress upon the point that valuation of the property is not properly done, however, record depicts that the respondent-Bank has got done the valuation of the secured assets from its empanelled valuer depicting the valuation under different heads after taking into account area and all the aspects of the secured assets, therefore, mere wholesale assertion is not sufficient to dislodge the report of the approved valuer.

23. The sequence of events adumbrated above would make it conspicuous that the petitioner has thrown challenge to the Auction Notice dated 17.06.2025 which came to be duly published in the newspapers as per Rule 8 (6) of Rules of 2002 and it was only after the lapse of two months from the date of publication of Auction Notice, the petitioner has filed the present writ petition, wherein, while inter-alia admitting his liability, has thrown the challenge to the action of the respondent-Bank in initiating the proceedings under the provisions of the SARFAESI Act.

24. The point involved in the petition is no more *res integra* and is settled by Hon'ble Supreme Court in **M. Rajendran and ors. Vs. M/s KPK Oils and Proteins India Pvt. Ltd. And ors.;** **2025 SCC Online SC 2036**, a *locus classicus* on the subject wherein, Hon'ble Supreme Court in an unequivocal words, while interpreting the object underlying Section 13 (8) of the SARFAESI Act held as follows:-

“To put it simply, as per sub-section (8) of Section 13 of the SARFAESI Act, a borrower can tender the amount of due to the secured creditor along with all costs, charges and expenses, at any time, before the date of publication of notice for public auction or inviting quotations or tender from public or private treaty, as the case may be.

A borrower has no unfettered right to tender such amount of dues, as stipulated in Section 13(8), after the date of publication of notice for public auction or inviting quotations or tender from public or private treaty, as the case may be, because the restriction on the secured creditor, from transferring the secured asset, envisaged under clause(s) (i) and (ii) of the said provision, would only be attracted, if the dues are tendered prior to the publication of notice for public auction or inviting quotations or tender from public or

private treaty, as the case may be. Where the borrower tenders such dues after the publication of the notice stipulated in Section 13(8), the secured creditor is not bound to accept it, and can continue to proceed with the transfer of the secured asset, by way of lease, assignment or sale.”

25. Hon’ble Supreme Court went onto explain **the object underlying amended Section 13 (8) of the SARFAESI Act, that the amended provisions extinguishes the right of redemption of the borrower in the event he fails to repay his dues and redeem the asset before publication of the Auction Notice.**

26. In the above case before the Hon’ble Supreme Court, the Auction Notice was published by the bank on 22.01.2021 and the secured assets were successfully auctioned on 26.02.2021. In the circumstances, the Hon’ble Supreme Court has authoritatively held that right to redeem the secured asset stood extinguished on 22.01.2021 on the ground that borrowers have failed to pay the outstanding debt before the publication of Auction Notice dated 22.01.2021.

27. Now, turning to the case on hand, as we have noticed that the final Tender-cum-Auction Notice came to be issued on

17.06.2025 and published in the newspaper. In view of the above and settled proposition of law, once the Auction Notice is published, the right of redemption of the petitioner has extinguished on 17.06.2025 and any amount even if deposited is immaterial. Admittedly, the petitioner has failed to repay his dues till the publication of the Auction Notice dated 17.06.2025 and by now, respondent No. 3 was not only declared as successful bidder but has deposited the entire consideration as per the terms of Auction Notice with the respondent-Bank.

28. In the above backdrop, when all the factual and legal pleas raised by the petitioner are tested on the anvil of law, it goes without saying that the petitioner has made an abortive attempt just to delay the process after having been failed to respond to all the notices issued under the SARFAESI Act to deposit the outstanding amount, therefore, once it is found that the right of the petitioner to redeem the secured assets stand extinguished, in that event, we do not deem it necessary to go into the other grounds urged by the petitioner.

29. In the above backdrop, writ petition does not stand the scrutiny of law, therefore, being bereft of merit, accordingly, same is dismissed along with connected CM(s).

30. Interim order, if any, shall stand vacated.

31. Record is returned to Mr. Ajay Bakshi, Advocate appearing for the respondent-Bank.

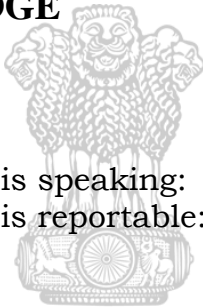
(SHAHZAD AZEEM)
JUDGE

(SINDHU SHARMA)
JUDGE

JAMMU
09.12.2025
Tarun/PS

Whether order is speaking:
Whether order is reportable:

Yes/No
Yes/No



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OF JAMMU & KASHMIR AND LADAKH