



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

Number 256

(December 29, 2025)

Arrow Business Development Consultants Pvt. Ltd. vs. Union Bank of India & Ors.
Writ Petition No. 11132 OF 2025
Date of Bombay High Court's Judgment: 10th December 2025

Facts of the Case: -

The present writ petition was filed by Arrow Business Development Consultants Pvt. Ltd. (“the Petitioner”), the successful auction purchaser of a residential flat, seeking directions against Union Bank of India (“the Bank”) for handing over physical possession of a residential flat that had been sold under the Securitization And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI Act”). The dispute arose in the backdrop of parallel proceedings under the Insolvency and Bankruptcy Code, 2016 (“IBC”), initiated by the original borrowers, raising questions on the effect of an interim moratorium on an incomplete SARFAESI sale.

The Bank had extended financial facilities to the original borrowers, who were owners of the secured asset. Upon default, the loan account was classified as a non-performing asset, following which a demand notice under Section 13(2) of the SARFAESI Act was issued, and symbolic possession of the secured asset was taken under Section 13(4). Thereafter, the Bank initiated sale proceedings in accordance with the SARFAESI Rules.

An e-auction was conducted in which the Petitioner emerged as the highest bidder, and the sale was confirmed in its favour upon payment of the initial consideration. While the Petitioner proceeded to make further payments towards the sale consideration, one of the borrowers filed an application under Section 94 of the IBC seeking initiation of personal insolvency proceedings, triggering an interim moratorium under Section 96 of the Code. Notably, several tranches of payment were received by the Bank after the commencement of the interim moratorium.

Subsequently, the Bank issued a sale certificate in favour of the Petitioner. The borrowers challenged the sale before the Debts Recovery Tribunal (“DRT”) under Section 17 of the SARFAESI Act, contending that the continuation of the sale process violated the interim moratorium under the IBC. The DRT disposed of the application, holding that in view of the moratorium and pendency before the NCLT, no further orders were required. Aggrieved by the Bank’s refusal to hand over possession despite issuance of the sale certificate, the Petitioner approached the High Court by way of the present writ petition.



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High Court's Observations:

After examining the factual matrix of the case, the Court noted that the question that needs to be determined in the present Writ Petition is whether, post amendment to Section 13(8) of the SARFAESI Act, the Borrowers' ownership right in the secured asset, also stands extinguished, upon issuance of the sale notice under Rule 8(6) of the SARFAESI Rules.

The High Court examined the interplay between the SARFAESI Act, 2002 and the Insolvency and Bankruptcy Code, 2016, particularly in the context of an interim moratorium under Section 96 of the IBC and its effect on enforcement proceedings initiated by a secured creditor. The Court observed that the interim moratorium under Section 96 is markedly wider in scope than the moratorium under Section 14, as it operates "in relation to all the debts" of the individual debtor or personal guarantor, and not merely against the debtor as an entity. Consequently, once such interim moratorium comes into effect, all legal actions or proceedings in respect of any debt stand statutorily stayed. Relying on the decision of the Supreme Court in *Indian Overseas Bank v. RCM Infrastructure Ltd.*, the Court reiterated that a statutory sale under the SARFAESI framework is completed only upon full payment of the sale consideration and issuance of a sale certificate. The Court clarified that although the 2016 amendment to Section 13(8) curtails the borrower's right of redemption upon publication of the auction notice, such extinguishment does not ipso facto result in transfer of ownership. Ownership continues to vest with the borrower until the sale is completed in accordance with Rule 9 of the SARFAESI Rules.

Applying these principles, the Court held that where the interim moratorium intervenes after confirmation of sale but prior to completion of payment and issuance of the sale certificate, the secured creditor is legally restrained from accepting further payments or proceeding with the transfer. Any such continuation would be in teeth of Section 96 of the IBC. The Court further observed that vested rights claimed by an auction purchaser remain contingent upon lawful completion of the sale and cannot override a statutory moratorium.

Order/Judgement: The Court held that the petitioner is not the owner of the secured asset and therefore is not entitled to its possession.

Case Review: *Writ Petition dismissed.*