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SARFAESI

Section 34 of SARFAESI Bars Pre-Emptive Injunctions: Karnataka High Court Reaffirms Statutory Ouster

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Background and Context

A division bench of the High Court of Karnataka, comprising the Chief Justice and Justice C.M. Poonacha, has delivered a significant ruling on the intersection of arbitration law and secured creditor enforcement rights. The decision, rendered on 24 April 2026, conclusively holds that a Commercial Court exercising jurisdiction under Section 9 of the Arbitration and Conciliation Act, 1996 (A&C Act) cannot issue an interim injunction restraining a secured creditor from initiating proceedings under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). The bar imposed by Section 34 of SARFAESI, the Court held, extends not only to actions already taken under the statute but equally to actions that are yet to be taken.

The appellants, Sammaan Finserve Ltd. (formerly Indiabulls Commercial Credit Ltd.) and two related entities, are Non-Banking Financial Companies and an Asset Reconstruction Company. The first respondent, Chimanlal Talreja, had filed an application under Section 9 of the A&C Act before the XI Additional District and Sessions Judge, Bengaluru Rural District, Commercial Court (CCH-11), seeking interim measures of protection. The relief sought included a direction restraining the appellants from initiating any proceedings under the SARFAESI Act or any other law, pending adjudication of a petition under Section 11 of the A&C Act before the High Court (CMP No. 589/2025).

Table of contents

- [Background and Context](#)
- [The Impugned Order and the Commercial Court's Reasoning](#)
- [The High Court's Holding](#)
- [Legal Significance: Section 34 and the Pre-Action Phase](#)
- [Practical Implications for Stakeholders](#)

The Impugned Order and the Commercial Court's Reasoning

The Commercial Court granted the interim relief sought, holding that Section 34 of SARFAESI does not operate as an absolute bar on its jurisdiction. The court below reasoned that the ouster clause in Section 34 is limited in scope: it excludes civil court jurisdiction only in respect of matters which a Debts Recovery Tribunal (DRT) or the Appellate Tribunal is empowered to determine under Sections 17 and 18 of the SARFAESI Act. Since the right to approach the DRT under Section 17 arises only after a measure under Section 13(4) of the SARFAESI Act has been taken, the Commercial Court concluded that it retained the power to restrain a secured creditor from taking any such measures in the first place. In effect, the Commercial Court drew a temporal distinction, treating the pre-action phase as a jurisdictional window within which civil courts could intervene.

The High Court's Holding

The High Court rejected this reasoning decisively. Engaging in a plain reading of Section 34 of the SARFAESI Act, the bench noted that the provision contains two distinct limbs. The first excludes civil court jurisdiction in respect of any matter which the DRT or Appellate Tribunal is empowered to determine. The second limb, and the one that proved determinative in the present case, provides that no injunction shall be granted by any court or other authority in respect of any action taken or to be taken pursuant to any power conferred under the SARFAESI Act or the Recovery of Debts and Bankruptcy Act, 1993.

The Court held that the phrase "to be taken" unambiguously covers prospective enforcement actions, not merely those already initiated. The statutory text of Section 34 thus operates as a comprehensive ouster, prohibiting civil courts from staying SARFAESI proceedings before they commence, not merely after. The Commercial Court's interpretation, which would have permitted pre-emptive injunctions on the ground that DRT jurisdiction had not yet been triggered, was found to be contrary to law. Notably, counsel for respondent No. 1 fairly conceded before the High Court that the impugned direction to the extent it restrained invocation of the SARFAESI Act was not legally sustainable. His submission was confined to seeking that only the offending portion of the order be set aside, leaving intact any directions that did not bear on the appellants' SARFAESI rights. The Court acceded to this limited prayer and set aside the specific direction in the Commercial Court's order which had restrained the appellants from taking action under Sections 13(1) and 13(2) of the SARFAESI Act.

The Court also clarified that its order does not preclude the other respondents, in respect of whom notice had been dispensed with at the appellants' risk, from availing of their remedies in relation to the original impugned order. Further, the High Court expressly reserved the question of the Commercial Court's prima facie findings and the remaining operative directions, having confined its examination solely to the SARFAESI restraint issue.

Legal Significance: Section 34 and the Pre-Action Phase

The significance of this ruling lies in its confirmation that Section 34 of SARFAESI forecloses civil court interference at every stage of the enforcement process, not merely once enforcement action is underway. Prior to this decision, the argument that civil courts could step in before Section 13(4) measures are taken, on the theory that DRT jurisdiction had not yet attached, had found some traction. The Karnataka High Court has now authoritatively closed that interpretive gap.

This reading is consistent with the legislative purpose underlying SARFAESI. The statute was enacted to provide a swift, time-bound mechanism for secured creditors to recover dues without recourse to protracted civil litigation. Parliament embedded the ouster clause in Section 34 to protect this recovery framework from dilution through injunctive relief issued by civil courts. Permitting courts to restrain the initiation of SARFAESI proceedings, on the basis that the DRT's supervisory jurisdiction arises only at a later stage, would effectively nullify the statute's enforcement architecture.

The decision also engages with an increasingly common litigation strategy whereby borrowers seek interim relief under Section 9 of the A&C Act in disputes with lenders, using the arbitration mechanism as a vehicle to delay or forestall SARFAESI enforcement. The Court's ruling signals that such orders, to the extent they restrain secured creditors from exercising SARFAESI rights, will not withstand appellate scrutiny.

Practical Implications for Stakeholders

For Secured Creditors and Asset Reconstruction Companies: This judgment reinforces the enforceability of SARFAESI rights even where arbitration proceedings are underway or contemplated. Secured creditors facing injunctions of this nature in Section 9 applications should consider challenging such orders under Section 37(1)(b) of the A&C Act, which permits appeals from orders granting or refusing interim measures. The Karnataka High Court's ruling provides strong grounds for such challenges where the injunction operates to restrain SARFAESI action.

For Borrowers and Guarantors: The decision narrows the scope for using arbitration proceedings as a defensive shield against SARFAESI enforcement. While borrowers retain the right to challenge SARFAESI measures through the statutory remedy under Section 17 once enforcement action is taken, and may separately pursue their arbitration claims, courts are unlikely to grant pre-emptive protection that freezes the secured creditor's rights under SARFAESI.

For Commercial Courts: The judgment provides clear guidance on the limits of their jurisdiction when dealing with Section 9 applications that seek to restrain SARFAESI action. Courts exercising jurisdiction under the A&C Act must be cautious in granting any interim relief that effectively prevents a secured creditor from exercising rights conferred by SARFAESI, regardless of the timing of the creditor's contemplated action.

For Litigants in Analogous Contexts: The principle underlying this ruling, that a statutory ouster clause covering prospective action is to be read literally and not confined to completed acts, has broader relevance. Parties should be attentive to similar provisions in other regulatory statutes where civil court intervention is excluded in respect of future action by a statutory authority or regulated entity.

Concluding Observations

The Karnataka High Court's decision in *Sammaan Finserve Ltd. v. Chimanlal Talreja* is a clear and principled application of Section 34 of the SARFAESI Act. By holding that the prohibition on injunctions extends to actions that are yet to be taken under the statute, the Court has closed a potential gap in the protective framework that Parliament constructed around secured creditor enforcement rights. The ruling also serves as a reminder that the A&C Act's interim relief provisions, while broad in scope, operate subject to the express limitations imposed by special statutes. Courts exercising jurisdiction under Section 9 of the A&C Act must navigate these constraints with care.

For financial institutions, asset reconstruction companies, and their counsel, this decision is a useful precedent. For borrowers and their advisors, it underscores the importance of pursuing relief through the appropriate statutory channels rather than seeking to pre-empt SARFAESI enforcement through civil court injunctions.

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