



SARFAESI

Acknowledgment of Debt and Limitation in SARFAESI Proceedings: DRAT Chennai Upholds Secured Creditor's Enforcement Action

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The enforcement of security interest under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) frequently intersects with complex questions of limitation, subsequent transfers of mortgaged property, and the rights of bona fide purchasers. The Debt Recovery Appellate Tribunal (DRAT), Chennai, in *Sri Basavaraj S. Ankali v. Authorised Officer and Asst. General Manager, LIC Housing Finance Ltd. and Ors.*, RA(SA) No. 74 of 2017, decided on 9th April 2026, delivered a significant ruling affirming that an acknowledgment of debt by the borrower can effectively extend the limitation period for issuing a Section 13(2) demand notice, even where the original default occurred over a decade prior.

The factual matrix traces its origin to a vacant site allotted by Chethana Co-operative Housing Society Limited to the second respondent, with a sale deed executed in his favour on 12th October 1999. The second respondent availed a loan facility from the first respondent, LIC Housing Finance Ltd., sanctioned on 2nd May 2000, for constructing a residential building. An equitable mortgage was created in favour of the financial institution by deposit of the original title deed, evidenced by a Memorandum of Deposit dated 17th May 2000. The second respondent subsequently sold the constructed property to the third respondent through a registered sale deed dated 21st August 2003, and the third respondent, in turn, sold the same to the appellant, Sri Basavaraj S. Ankali, by a registered sale deed dated 25th June 2004. Both these transfers occurred while the mortgage in favour of LIC Housing Finance remained in full force and effect.

The second respondent defaulted on the equated monthly instalments with effect from 1st October 2001, leading to the classification of the loan account as a Non-Performing Asset. After prolonged inaction, the first respondent issued a Section 13(2) demand notice dated 10th June 2014 demanding Rs. 23,27,742.75 together with future interest, followed by a possession notice under Section 13(4) of the SARFAESI Act. The appellant, claiming to be a bona fide purchaser without knowledge of the mortgage, challenged these measures by filing Securitisation Application (SA) No. 520 of 2014 before the Debt Recovery Tribunal, Bangalore. The appellant specifically contended that the SARFAESI measures were barred by limitation and that the DRT had failed to address this fundamental defence. By order dated 4th September 2015, the learned Presiding Officer dismissed the application, prompting the appellant to file the present appeal under Section 18 of the SARFAESI Act before the DRAT, Chennai.

The rival contentions before the appellate tribunal were sharply delineated. The learned counsel for the appellant, advanced the primary argument that the demand notice dated 10th June 2014 was barred by limitation. Since the default commenced on 1st October 2001, the notice issued nearly thirteen years later fell beyond the twelve-year period prescribed under Article 62 of the Limitation Act, 1963. Reliance was placed upon *Somnath Manocha v. Punjab and Sindh Bank* (2012 SCC Online Del 2251) and the Calcutta High Court decision in *Din Dayal Kayan v. Canara Bank* (WPO/580/2024) to contend that a subsisting liability must exist on the date of issuance of the Section 13(2) notice, and that time-barred claims cannot sustain SARFAESI measures. Additionally, the appellant argued that as a subsequent purchaser from the borrower, he was entitled to raise all defences available to the mortgagor, citing *Kanti Ram v. Kutubuddin Mahomed* (MANU/WB/007/1894), *Samarendra Nath Sinha v. Krishna Kumar Nag* (MANU/SC/0217/1966), and *Central Bank of India v. Prabha Jain* ((2025) 4 SCC 38). He further relied upon the encumbrance certificate, which did not reflect the mortgage, to assert bona fide purchaser status.

Per contra, the learned counsel for the first respondent, robustly refuted the limitation plea. It was submitted that the borrower had acknowledged his liability through two letters written in 2003. In the letter dated 19th July 2003, addressed to LIC Housing Finance, the borrower admitted his inability to service the loan due to adverse financial circumstances and departmental action, and expressly stated his decision to sell the property through the institution so that the loan balance could be cleared. A subsequent letter dated 17th November 2003, addressed to the Assistant Commissioner, HDMC, Hubli, with a copy to the first respondent, reiterated this offer. These communications, it was argued, constituted an unequivocal acknowledgment of debt, rendering the demand notice of 10th June 2014 well within twelve years from the date of acknowledgment.

The DRAT, meticulously examined the materials on record. The Tribunal observed that the borrower's letter dated 19th July 2003 contained an explicit admission of the debt and an intention to discharge it by selling the mortgaged property through the secured creditor. The Tribunal held that this communication, coupled with the letter of 17th November 2003, constituted a valid acknowledgment under the Limitation Act, thereby extending the period of limitation from 19th July 2003. Consequently, the Section 13(2) demand notice issued on 10th June 2014 was held to be within limitation, and the SARFAESI measures initiated pursuant thereto were in accordance with law.

On the question of the appellant's status as a bona fide purchaser, the Tribunal noted that the appellant himself had admitted that the original title deed executed in favour of the second respondent was represented to him as having been misplaced. The DRAT held that the absence of the original title deed ought to have put the appellant on inquiry notice. Furthermore, an equitable mortgage by deposit of title deed, as existed in this case, was not required to be registered under the law prevailing at the time of its creation. Therefore, the non-reflection of the mortgage in the encumbrance certificate afforded the appellant no protection, and he could not take shelter under it to defeat the mortgagee's rights.

Regarding the appellant's contention that a subsequent purchaser is entitled to invoke the defences available to the borrower, the Tribunal held that this proposition, even if accepted, could not assist the appellant in upsetting the DRT's order. Since the primary defence of limitation failed on the facts, the ancillary proposition regarding the standing of a subsequent purchaser became academic and did not warrant interference. The Tribunal distinguished the judgments relied upon by the appellant, noting that they were rendered in factual matrices where no acknowledgment of debt had been established, unlike the present case where clear acknowledgment existed.

In the result, the DRAT dismissed the appeal and upheld the order of the learned Presiding Officer, DRT, Bangalore dated 4th September 2015 passed in SA No. 520 of 2014. The Tribunal directed the parties to bear their own costs and ordered that any pending interim applications shall stand closed.

The judgment in *Sri Basavaraj S. Ankali v. LIC Housing Finance Ltd.* serves as a significant exposition on the interplay between acknowledgment of debt and limitation in SARFAESI proceedings. It reinforces the principle that secured creditors may validly initiate enforcement action notwithstanding prolonged default, provided the borrower has acknowledged the liability within the statutory period. The decision also cautions subsequent purchasers of mortgaged property that the absence of a registered mortgage entry in an encumbrance certificate does not confer immunity against an equitable mortgage created by deposit of title deeds, and that due diligence in verifying original title documents remains paramount.

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