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*The art of life is a constant adjustment to our surroundings.*”



## OUR APPROACH

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Our pragmatic, professional and client-oriented approach helps us to deliver cost effective legal solutions across all sectors. We believe in providing practical and goal oriented legal advice on a wide range of domestic & international transactions.

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### **DR. LAXMI MALL SINGHVI ANECDOTES**

A Kolkata Lawyer came to brief Dr. Laxmi Mall Singhvi, Senior Advocate and after holding the conference with him, he gave him a cheque and told him, “*Sir here are your material instructions*”. What he meant was that his client was depositing his fees for the conference and for his appearance before the Supreme Court. After seeing the cheque amount he remarked, “*Not material enough*”.

**Credit:**

*Law Humour and Urdu Poetry*  
Ejaz Maqbool  
Advocate, Supreme Court

Orbit Law Services believes in serving the clients in the most efficient and effective manner to suit client strategies. As trusted advisors, the firm's lawyers have represented a wide variety of commercial, industrial, institutional and individual clients, including banks, financial institutions, non-banking financial institutions, asset reconstruction companies, large and mid-sized public sector as well as private sector companies, partnerships, business groups, startups and emerging companies - national and international.

# Incorporated Insights



## Supreme Court: Developers not liable to pay Home Loan interest for Delayed Projects

In a significant ruling dated 4th June 2025, the **Hon'ble Supreme Court** of India held that **real estate developers or housing authorities cannot be directed to reimburse the interest paid by homebuyers on bank loans in the event of delay in possession of residential units**. The judgment was delivered in **Greater Mohali Area Development Authority (GMADA) v. Anupam Garg & Ors.**, and provides authoritative clarity on the scope of compensation in real estate consumer disputes.

### Background of the Case:

The dispute originated when GMADA launched the Purab Premium Apartments scheme in Mohali, Punjab in 2011. Respondents Anupam Garg and Rajiv Kumar applied for flats under this scheme, paying significant upfront amounts and availing housing loans to cover the remaining dues. As per the Letter of Intent (LOI) dated May 21, 2012, GMADA was to deliver possession by May 21, 2015. However, construction was not completed on time.

The buyers, frustrated by the delays and changes in project execution, opted to withdraw and approached the State Consumer Disputes Redressal Commission (SCDRC), seeking a full refund along with:

- 8% interest on the deposited amount (as per LOI),
- compensation for mental harassment,
- litigation costs,
- and interest paid on bank loans taken to fund the property.

The SCDRC awarded the Claim and granted all reliefs sought. This was later confirmed by the National Consumer Disputes Redressal Commission (NCDRC).

### Issue Before the Supreme Court

GMADA challenged the NCDRC order in the Supreme Court, only on the limited issue of whether it could be directed to pay the homebuyer's loan interest in addition to the 8% interest and compensation already granted.

### Supreme Court's Ruling

A Bench comprising Justice Sanjay Karol and Justice Prasanna B. Varale allowed GMADA's appeal in part, holding that: *"The liability to compensate does not extend to reimbursing the interest component of loans taken by the buyers. The contractual 8% interest along with compensation for harassment sufficiently satisfies the requirement of restitution."*

The Court clarified:

- Compensation under consumer law is valid but awarding interest on third-party loans taken by the buyer goes beyond reason.
- Buyers' financing choices (loan vs. self-funding) do not impose additional liability on the builder.
- Compensation must be reasonable, not arbitrary, and not awarded under multiple heads for the same cause of action (i.e., delay in possession).

The Court also referred to key precedents:

- *Bangalore Development Authority v. Syndicate Bank (2007)*
- *GDA v. Balbir Singh (2004)*
- *DLF Homes Panchkula (P) Ltd. v. D.S. Dhanda (2020)*

Since the complaint against GMADA was filed shortly before the full implementation of RERA on 1 May 2017 in the State of Punjab, it does not fall within the jurisdiction of the Punjab State Real Estate (Regulation and Development) Rules, 2017.

### Key Takeaways:

1. Developers must refund the principal with contractual interest (if delayed possession occurs).
2. Mental harassment and litigation costs may be awarded under the Consumer Protection Act.
3. Loan interest reimbursement on housing loan of buyer is not a legal obligation on developers unless contractually agreed.
4. Uniform compensation is inappropriate each case must be judged on its own facts.

### Conclusion

This judgment provides much-needed clarity to the real estate sector, where homebuyers often finance their investments through bank loans. It also balances homebuyer rights and developer obligations. It ensures compensation for genuine delays without extending liability to indirect costs like loan interest. Buyers must scrutinize delay clauses, while developers can rely on this precedent to avoid unwarranted financial burdens.

### Our Point of View

From a legal advisory view, this judgment upholds contractual sanctity and clarifies the limits of compensation under consumer law. Developers should define liability and delay remedies clearly in agreements, while consumers must weigh loan obligations against contract terms. The ruling strikes a balance between equitable relief and commercial certainty in real estate deals.



### Capital Cuts: Legal Pathways for Share Reduction under the 2013 Act

The process of share capital reduction under the Companies Act, 2013 has continued to evolve through both statutory interpretation and judicial pronouncements. A recent judgment by the **National Company Law Appellate Tribunal (NCLAT), New Delhi Ulundurpet Expressways Private Limited v. Regional Director, Mumbai** offers fresh insight into how courts are approaching this corporate restructuring tool. This article explores the legal framework governing capital reduction in India, using the NCLAT's ruling as a lens to understand its practical and regulatory implications. The process of share capital reduction under the In this case, the company sought approval for the reduction of 16,76,96,382 equity shares of ₹10 each. The reduction was effected by returning ₹11.33 per equity share to the shareholders, based on the fair market valuation as determined by a registered valuer. The aggregate amount to be returned to the shareholders amounted to ₹190,00,00,008, which was structured as a loan arrangement between the company and its shareholders, to be repaid over a period of time.

### Brief facts:

Ulundurpet Expressways Private Limited ("UEPL's") is a Special Purpose Vehicle (SPV) established to build and operate a four lane-highway under a BOT (Build-Operate-Transfer) toll model in Tamil Nadu and has been operational since July, 2009. As of 30<sup>th</sup> September 2022, UEPL's paid-up equity share capital stood at ₹2,64,55,23,650 divided into 26,45,52,365 equity shares of INR 10 each, fully paid-up. In the initial years the UEPL has accumulated losses thereby impacting its ability to distribute surplus cash to its shareholders by way of dividend. However, the UEPL has then witnessed increase in revenue because of the toll rates revision and traffic growth and thereby expected the overall revenue growth to further increase in the years to come.

On 29<sup>th</sup> November 2022, The UEPL decided to cancel 16,76,96,382 equity shares of ₹10 each, fully paid up held by the shareholders, out of total existing paid - up equity share capital of the UEPL of ₹ 2,64,55,23,650 divided into 26,45,52,365 equity shares of ₹10 each, fully paid up and that such reduction shall be effected by returning to the shareholders ₹11.33 per equity share (being the fair market valuation of the equity shares of the UEPL as determined by the registered valuer CA Harsh Chandrakant Ruparelia in his report) aggregating to an amount of ₹190,00,00,008/-, which shall be kept outstanding as a loan to the UEPL.

### NCLT ORDER – Petition Dismissed (19.12.2023):

Despite the consensus among shareholders and no objections from stakeholders, the NCLT dismissed the petition (CP No. 271/2022) and declined to confirm the Special Resolution passed by the UEPL on the following grounds:

- 1. Violation of Section 66(1)(b)(ii) of the Companies Act, 2013:** NCLT held that the capital sought to be reduced was not presently in excess of the company's requirements. Since the cash outflows were projected from future accruals, hence the reduction was not permissible under Section 66.
- 2. Conversion into Interest-Bearing Loan:** The conversion of capital into an interest-bearing unsecured loan was seen as a financial restructuring that could impact financial ratios and may amount to indirect overseas lending, potentially falling under FEMA and ECB guidelines.
- 3. Premature Reduction:** The NCLT found that the proposed buyback relied on future projections, and as such, could not be classified as "excess capital" on the date of the resolution.

### NCLAT's ruling – NCLT order set aside:

The NCLAT allowed the appeal and reversed the NCLT's order based on the following key findings:

- **Discretion Under Section 66:**

Section 66(1) gives broad discretion to companies to reduce capital “in any manner,” subject to approval by shareholders and confirmation by the Tribunal. The Tribunal's role is limited to checking fairness and stakeholder protection, not to substitute its business judgment.

- **Precedents Ignored by NCLT:**

The NCLAT observed that similar schemes in cases like Dewas Bhopal Corridor Pvt. Ltd. and Godhra Expressways Pvt. Ltd. had been approved by other NCLT benches. The current dismissal lacked consistency with those precedents.

- **No Stakeholder Objection:**

Neither the creditors, Regional Director (western region), nor the Registrar of Companies objected to the reduction. This underscored the absence of prejudice or malafide.

- **Law on Capital Reduction:**

NCLAT reiterated principles from various judgments:

- Reckitt Benckiser (India) Ltd.: Capital reduction is a domestic matter, and majority shareholder decision prevails.
- Indian National Press (Indore) Ltd.: Courts must ensure no unfairness to minority or creditors but not interfere with business discretion unless warranted.
- **FEMA/ECB Concerns Are Irrelevant at This Stage:**

The NCLAT held that regulatory concerns like FEMA and ECB guidelines can be addressed at the stage of loan documentation and do not affect the legality of the capital reduction per se.

The NCLAT has placed its reliance on the precedents wherein the similar issues have been addressed by the Hon'ble High Court of Delhi in the matter of Reckitt Berickiser (India) Ltd by laying down the principals as follows:

- Reduction of share capital is a domestic matter of the company and should be solely prevail on the decision of majority;
- The Special Resolution passed in this regard should not be unfair or inequitable; and
- All creditors in relation to the special resolutions should be either consented or been paid or secured.

### Conclusion:

The NCLAT's decision confirms that companies, especially SPVs, can adjust their financial structures through share capital reductions under Section 66 of the Companies Act, 2013. It also clarifies the application of Section 66. By allowing UEPL to move forward with its capital reduction plan, the NCLAT has set an important example for future cases.



## Maharashtra Electric Vehicle Policy, 2025

Electric mobility has witnessed a strong growth over the past few years in the country in this context Government of Maharashtra (GoM) has introduced a new **Maharashtra Electric Vehicle Policy 2025 which will be effective for 5 years from April 1, 2025, to March 31, 2030.**

This Policy is designed to further accelerate the demand for electric mobility in the state of Maharashtra, and make Maharashtra a hub for electric vehicle use, manufacturing and innovation with this Policy the state govt aims to avert 325 tonnes of PM 2.5 emission and 1,000 tonnes of Greenhouse gas (GHG) emission from the transport sector by the end of this decade. Main goals include promoting large-scale EV usage across all vehicle categories, strengthening public transport electrification, developing a wide-reaching charging infrastructure in both urban and rural areas.

### Policy Target:

The GoM aims to target a 30 percent EV adoption by 2030. The other important benefits include a full exemption from motor vehicle tax and no registration fees as per the MoRTH notification dated 18.06.2019, the Policy will also provide a full Toll Waiver for passenger vehicle on the Yashwantrao Chavan Mumbai-Pune Expressway and the Samruddhi Mahamarg (Mumbai-Nagpur), Hindu Hrudaysamrat Balasaheb Thackeray Maharashtra Samruddhi Mahamarg, Atal Bihari Vajpayee Sewri-Nhava Sheva Atal Setu, as part of this initiative.

### Incentives For Developing Green Ev Infrastructure:

The GoM aim is to build a strong EV charging infrastructure to support large-scale electric vehicle adoption, mainly along national

and state highways. Important incentives and support measure includes all new and existing fuel stations on highways, as well as MSRTC bus stations and stops, must install at least one fast EV charging station, dependent upon technical feasibility. This will be done through an Mou With Oil Marketing Companies (Omc).

#### **Demand Side Intervention:**

Industries involved in EV battery or component manufacturing including MSMEs are eligible for all benefits under the 'D+' category of mega project incentives, no matter of where they are located in the state, benefits include financial and infrastructure support, and it will be administered by the Industries Department with the help of official guidelines.

The state will encourage the creation of battery recycling hubs near EV manufacturing zones and charging networks, on priority locations such as Mumbai Metropolitan Region, Pune, Nagpur, and Chhatrapati Sambhajinagar.

Urban authorities will take steps to support end-of-life EV battery handling, which will include designating battery drop-off points at charging stations, dealerships, centres. Then allocating land near existing waste facilities for setting up of battery segregation and disposal centres.

#### **Research Skill And Talent Development:**

The Policy places strong emphasis on fostering innovation and talent development to drive the state's leadership in electric mobility. It will establish at least three Centres of Excellence (CoEs) in cities like Mumbai, Nagpur etc to advance R&D in EVs, charging infrastructure, and hydrogen technologies. A ₹15 crore CM EV Research and Development Grant will support work in next-generation batteries, localised power electronics, battery recycling, Vehicle-to-Grid (V2G) integration, and green hydrogen. while a new skills certification and reskilling framework will prepare the existing Internal Combustion Engine (ICE) vehicle workforce for the EV transition.

#### **Policy Implementation:**

A Steering Committee will set up an oversee implementation it will also resolve challenges, monitor the progress and recommend any amendments if needed. The new Maharashtra State EV Cell will coordinate across departments. The Transport Department and PWD will manage demand-side interventions, Transport, Urban Development, and PWD will oversee charging infrastructure, Industries and the Urban Development departments will

will handle supply-side interventions, Industries, and Energy departments will drive R&D efforts and Higher & Technical Education.

#### **Conclusion:**

A sustainable circular ecosystem for battery use and disposal is essential for long-term green infrastructure development that is why the Policy not only gives incentives for clean manufacturing but also builds sustainable circular ecosystem. While the Policy is strong, its success will depend on proper implementation and coordination across government bodies to effectuate better efficiency. The effective implementation of this Policy will simultaneously improve EV manufacture and consumption.



### **Supreme Court on Registration Act, 1908**

In **Mahnoor Fatima Imran and Ors. v. Visweswara Infrastructure Pvt. Ltd. And Ors.**, (MANU/SC/0659/2025), a two-judge bench of Supreme Court refused to grant any protection from dispossession to a person, who sought title and possession based on unregistered sale agreement. The court reinforced the critical importance of complying with statutory registration requirements in property transfers and underscored the principle that mere registration does not validate the substance of the transaction, especially in the face of questionable documentation. This decision reaffirms that true resolution of property disputes must occur through substantive civil proceedings and not by way of under interim writ protections and reinforces the importance of the timely registration of sale deed under Registration Act, 1908.

#### **Background Facts:**

The dispute concerns 53 acres of land in Ranga Reddy District, Telangana, wherein during 1982, an unregistered sale agreement was executed in favor of Bhavana Co-operative Housing Society Ltd., by a General Power of Attorney ("GPA")

holder of the original landowners. However, subsequent registration was followed and validation done in 2006, which later emerged as fraudulent.

The procedural history of this case originated when the Respondents sought protection against dispossession by Telangana State Industrial Infrastructure Corporation Ltd. (TSIIC). The Single judge questioned them regarding the title and ownership of the land possessors along with respondent over the suit property and order stating that the question of title must occur through a civil trial and not to be decided in writ proceedings and so dismissed the petition. Later, the Division Bench reversed this, granting relief based on interim orders. The Appellants then filed a Special Leave Petition before the Supreme Court, which were converted into civil appeals. The Court restored the Single Judge's order, not to grant any protection from dispossession and set aside the Division Bench's order.

#### Issues at hand:

- Whether an unregistered sale agreement that is compulsorily registrable can serve as a better title or shelter one from dispossession?
- Whether mere registration of a conveyance document subsequently creates conclusive title?
- Whether interim High Court orders and GPAs establish rightful possession?
- Whether Writ Petitions under Article 226 are the correct forum for adjudicating title and possession?

#### Court Findings & Reasoning:

The Supreme Court reaffirmed that unregistered sale agreements cannot confer a valid title to the buyer from dispossession under Section 17 of the Registration Act, 1908 which turned out subsequently as fraudulent. The Court placed reliance on **Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana (2012) 1 SCC 656** wherein it was stated that unregistered agreements cannot support any claims to either the title or protect them from dispossession, so when the unregistered 1982 sale agreement was required to be compulsorily registrable under Sections 23 & 24 of the Registration Act and its 2006 revalidation was also invalid for transferring the title under Sections 17 and 49 of the Registration Act, thus the respondents cannot be said to have conferred with a title over the suit property and so is barred from claiming protection from dispossession. The Court reaffirmed that under Sections 23, 24 & 34 of the Registration Act, any sale of immovable property must be registered within four months (extendable to eight) months otherwise failure of such blocks the right to possession or valid title of the property. The Apex Court clearly laid emphasis on registered documents not having absolute validity as the registration

merely serves as public notice and does not become immune to challenge, since even the registered deeds are rebuttable under Section 35 of the Registration Act in appropriate proceedings. The court has clarified that the original agreement of 1982 would not revalidate the subsequent registered conveyance done for the property.

The Court further observed that the interim orders and GPAs alone do not establish any rightful possession as the State has the statutory vesting of the land and such vesting outweighs any GPAs and interim orders or possession claims.

The Court emphasized that the writ petitioners never proved that they held a valid title or rightful possession, as they were merely asserting possession without a legal basis and so the Apex Court agreed with the appellants and stated that title cannot be asserted through common law writ relief and must be adjudicated through a civil suit, as writ jurisdiction under Article 226 isn't a substitute for civil proceedings where title disputes are unresolved.

#### Significance & Takeaway:

- A sale agreement should be registered, if not, it is legally ineffective and will not confer any better title nor will it protect one from dispossession.
- Court registration provides merely notice; presumptions of legality can be rebutted.
- Writ jurisdiction is not a substitute for a civil proceeding where the title and possession disputes are required to be resolved.

The Supreme Court restored the judgment of the learned Single Judge of Telangana High Court with certain observations and reservations and reinforced the critical importance of complying with the statutory registration requirements in property transfers. It underscored the principle that mere registration does not validate the substance of the transaction, especially in the face of contradictory facts and questionable documentation. This decision reaffirms that true resolution of property disputes must occur through substantive civil proceedings and not by way of under any interim writ proceedings.



#### Draft Climate Finance Taxonomy

India is making significant progress in its commitment to a sustainable future with the rollout of its **Draft Climate Finance Taxonomy** ("Draft Framework") through Ministry of Finance and Department of Economic

Affairs. The ministry has invited public comment on the same. The proposed taxonomy aims to be a crucial tool in channelling investments into green technologies and activities, and in directing financial flows towards the climate friendly activities and technology, aligning India's economic growth with its ambitious climate commitment reflecting through its commitment like "Net Zero Emission by 2070" and "Viksit by 2047". This will also support India's developmental objectives and its commitments under the Paris Agreement which aims to reduce greenhouse gas (GHG) emissions. The Paris Agreement enables to arrange financial assistance from countries with more financial resources to those that are less equip and more vulnerable. This recognizes the contribution of countries to climate change and their capacity to prevent it and cope with its consequences which vary at large. In compliance with the Paris Agreement and in order to promote United Nations Framework Convention on Climate Change (UNFCCC) every member country is required to submit Nationally Determined Contributions (NDCs). India's 4th Biennial Update Report (BUR-4) highlighted a 7.93% reduction in GHG emissions in 2020 compared to 2019. This demonstrates India's commitment to a sustainable, climate-resilient future.

#### **What is a Climate Finance and Climate Finance Taxonomy?**

As defined by United Nations Climate Change, climate finance refers to "local, national or transnational financing drawn from public, private and alternative sources of financing that seeks to support mitigation and adaptation actions that will address climate change". Climate finance is important for mitigation, of GHG because large-scale investments are required to significantly reduce emissions for a sustainable future. And it is equally important for adaptation, as significant financial resources are required to adapt to the adverse effect and reduce the impact of a changing climate. Whereas the climate finance taxonomy is a classification system that defines which economic activities are considered environmentally sustainable. It provides a common language and framework for policymakers, investors, and businesses to identify and support projects that contribute to climate change mitigation and adaptation. By establishing clear criteria, the taxonomy aims to facilitate greater resource flow, prevent greenwashing; align with national goals.

#### **What is the proposed draft all about?**

The newly released Draft Framework serves as a foundational document, meticulously outlining the approach, objectives, and guiding principles of the taxonomy. The fundamental goal of this taxonomy is to establish a clear, standardized, and credible classification system for economic activities, projects, and assets that demonstrably contribute to India's climate and sustainable development objectives. By providing a universally understood definition of "green" investments within the Indian context, the framework seeks to significantly enhance the flow of both domestic and international finance into vital climate action. This initiative, can be linked to India's ambitious climate action, announced in the Union Budget 2024-25, which stated that taxonomy for climate finance would be developed for *"enhancing the availability of capital for climate*

*adaption and mitigation"*. The development of this taxonomy is a two-phased process as proposed. The first phase will establish the foundation framework and approach. The second phase will involve the detailed classification of specific climate-supportive and transition-facilitating activities within various sectors and industries. This phased strategy is designed to offer clarity and transparency to investors, while ensuring the taxonomy remains adaptable and aligned with India's unique developmental priorities.

#### **Why is this taxonomy crucial?**

- **Bridging the Finance Gap:** India's ambitious climate targets, including significant Nationally Determined Contributions (NDCs) by 2030, demand substantial financial backing estimated in trillions of dollars. This taxonomy is designed in such a manner that it streamlines access to this much-needed capital.
- **Combating Greenwashing:** In an increasingly conscious investment landscape, clear definitions are paramount. The taxonomy will serve as a robust, government-backed tool to prevent "greenwashing" misleading claims about environmental benefits thereby fostering greater trust and transparency in the burgeoning green finance market.
- **Guiding Smart Investments:** For investors, banks, and financial institutions, the taxonomy offers a common language, enabling them to identifying aligned investments (easily identifying projects and companies that genuinely contribute to climate goals); to develop credible green products (sign and offer financial instruments like green bonds and loans with confidence in their environmental integrity); manage climate risk (better assess and mitigate climate-related financial exposures); unlock cheaper capital (companies meeting the taxonomy's criteria may gain preferential access to green financing options); integrating climate action with development (A unique aspect of India's taxonomy is its tailored approach, seamlessly blending climate commitments vision).
- It embraces not just direct emission reductions but also supports "transition" activities, particularly crucial in "hard-to-abate" sectors such as steel and cement. The activities by such sectors are based into two criteria firstly on their emissions reduction potential and

whether other green alternatives are available or not. It also introduces specific criteria both quantitative (like emission thresholds) and qualitative (like 'do no significant harm' principles) ensuring environmental and social integrity.

The Draft Framework places significant emphasis on key sectors such as energy, transport buildings, MSMEs and industry. It is designed not only for large corporations but also thoughtfully designed to support simplified criteria. This framework plays a crucial role in directing both domestic and international funds towards India's climate objectives and aligns with the global efforts like LIFE-Lifestyle for Environment.

- **Climate Adaptation:** The Draft Framework also emphasises on climate adaptation and resilience-building, which is an important element for a developing country facing significant climate impacts on agriculture, water resources, and infrastructure.

It can be concluded that this extensive taxonomy is foreseen to provide the fundamental clarity and attract remarkable international and domestic investments to expand India's journey towards a sustainable and flexible economy. While focusing on India's economy, the taxonomy signifies the importance of synergy with global standards. Maintaining the balance will attract global climate finance. This taxonomy is designed such that it will help to grow and adapt as climate science advances and new technologies will emerge. The provisions for regular updates are incorporated into its structure, ensuring it remains relevant, practical, and is aligned with the latest developments. If this Draft Framework is implemented effectively, it would play a crucial role in India's sustainability journey. It'll pave the way for reaching our climate targets, bringing in investments that support a greener future, and building a more sustainable world for everyone.



## **Supreme Court on Properties Law**

denied by the Sub-Registrar for registration on the grounds that the vendor's title of the Sale Deed was not proven.

This decision was made in the case of *K. Gopi v. The Sub-Registrar & Ors. (2025 INSC 462)*. The Court made it clear that the Sub-Registrar is not allowed by the Registration Act to scrutinize or rule on ownership or title issues that arise during the registration procedure.

The Court highlighted that registration is only a procedural act and not an adjudication of property rights. By invalidating Rule 55A(i), the judgment limits the powers of registration officials and protects citizens from administrative surplusage. It reaffirms the principle that disputes over title must be decided by civil courts, not by Registration authorities.

### **Background of the Case:**

In the case of *K. Gopi vs The Sub-Registrar & Ors.*, the dispute arose from the Sub-Registrar's refusal to register a sale deed that had been executed in favor of the appellant, K. Gopi. The Sale Deed was properly enforced, but the Sub-Registrar rejected to register it, claiming the appellant lacked evidence of the vendor's title. Dissatisfied with this refusal, the appellant filed a writ petition before the High Court of Madras, which was overruled by the Hon'ble Court and the Court directed to approach the District Registrar. Hence, as per the request made by the Appellant, the District Registrar further instructed the Sub-Registrar to reconsider the issue. The Sub-Registrar furthermore asked the appellant to re-submit the Sale Deed along with proof of the vendor's title.

The appellant resubmitted the sale deed. However, the Sub-Registrar continued to deny its registration. Therefore, the appellant preferred another writ petition, which was also dismissed. Following this, the appellant lodged a writ appeal wherein the High Court agreed with the Sub-Registrar's decision, considering it as valid under Rule 55A of the Tamil Nadu Registration Rules. This rule permits the Sub-Registrar to decline the registration of a document if there is insufficient evidence that the seller owns the property. The case then went to the Supreme Court. The appellant not only challenged the repeated refusal to register the sale deed but also argued that Rule 55A(i) was unconstitutional and went against the provisions given in the Registration Act, 1908.

The Supreme Court of India recently declared that Rule 55A(i) of the Registration Rules, which the Tamil Nadu government had embraced under the Registration Act of 1908, was unlawful since it went beyond the scope of the Act. The appellant, K. Gopi's Sale Deed was frequently

The appellant claimed that the Sub-Registrar did not have the authority to check or ask for proof of ownership, and that Rule 55A(i) went beyond the powers given under Section 69 of the Act. Because of these arguments, the Supreme Court looked at both the facts of the case and whether the rule was legally valid.

#### **Finding of the Court:**

Is Rule 55A(i) ultra vires and whether it is consistent with Section 69 of the Registration Act? The Tamil Nadu Registration Rules' Rule 55A(i) is deemed to be beyond the scope of the Registration Act of 1908 by the Supreme Court. The rule required the person presenting a document for registration to produce proof of title, which the Court found to be beyond the powers granted under Section 69 of the Act. The Court held that the Sub-Registrar's role is solely administrative and not adjudicatory, and they lack the power to confirm or ascertain ownership or title.

Does Sections 22-A and 22-B allow refusal for unproven title? The Court observed that Sections 22-A and 22-B of the Registration Act, as amended by the Tamil Nadu Amendment, do not permit refusal of registration on the grounds of absence of title documents they only permit refusal of registration in exceptional cases like government properties, religious properties, or Prohibited properties. Therefore, Rule 55A(i), which imposed such a condition, was inconsistent with the Act and could not be legally sustained.

Was the High Court wrong in relying on Rule 55A(i)? The Supreme Court set aside the impugned judgments of the High Court which had upheld the Sub-Registrar's refusal based on this invalid rule. The court granted the appeal and ordered that K. Gopi, the appellant, be given another chance to file the sale deed for registration within one month from the date of the judgment. Upon fulfilling all procedural requirements, the registering authority must proceed to register the document. The appeal was thus allowed.

#### **Conclusion:**

The Sub-Registrar or registration officer's function under the Registration Act of 1908 is solely administrative and not judicial. They are not authorized to examine or decide the ownership or title of the person executing the document. Even if the executant does not hold title to the property, the registering officer cannot refuse registration as long as all procedural requirements are met and the appropriate stamp duty and registration fees are paid. The registration of a document simply records the transaction, it does not validate ownership.



## **No Redemption After the Hammer Falls: SC Reaffirms SARFAESI Auction Finality.**

It is often said that the real agony of a decree-holder begins only after the decree is passed. This aptly applies to bonafide purchasers at public auctions in India. That as on date, despite winning an auction fair and square, such purchasers frequently find themselves entangled in protracted litigation often initiated by defaulting borrowers who exploit legal loopholes to delay or even derail the auction process.

As per Hon'ble Supreme Court's landmark judgment dated 21<sup>st</sup> September 2023, in **CELIR LLP v. Bafna Motors**, the sanctity and finality of public auctions conducted under the SARFAESI Act were re-affirmed. The Court upheld the 2016 amendment to Section 13(8) of the SARFAESI Act, which restricts a borrower's right of redemption to any time before the publication of the auction notice. This interpretation brings much-needed clarity, ending a long-standing legal ambiguity created by earlier judgments such as that of Mathew Varghese, which permitted redemption until the transfer was complete.

#### **Background of the Case:**

In **CELIR LLP v. Bafna Motors**, the facts were as follows: A secured asset was auctioned under the SARFAESI Act after eight failed attempts, with the borrower owing approximately Rs.123.83 crores as on 30.04.2023. The auction was eventually successful when the appellant placed a bid of Rs.105.05 crores, slightly above the reserve price of Rs.105 crores, resulting in the issuance of a Sale Confirmation Letter on 30.06.2023. However, on 04.07.2023, the borrower approached the DRT seeking redemption by offering to pay the full dues. Meanwhile, the auction purchaser deposited the full bid amount on 27.07.2023, which was accepted by the Bank. Anticipating an adverse order from the DRT, the borrower filed a writ petition before the Bombay High Court,

offering an enhanced settlement of Rs.129 crores. The High Court permitted redemption subject to payment by 31.08.2023, failing which the sale in favour of the auction purchaser was to be confirmed. The matter eventually reached the Supreme Court at the instance of the auction purchaser.

**Legal Issue:**

- a. Whether the right to redeem mortgaged property under the Transfer of Property Act continues even after the auction notice is advertised pursuant to the amended Section 13(8) of SARFAESI Act.
- b. This question arose in light of the conflict between the general law of redemption and the special provisions introduced by the 2016 amendment to SARFAESI.

**The Supreme Court's Decision:**

The Supreme Court, in a detailed and balanced judgment, held:

*87. Any other interpretation of the amended Section 13(8) will lead to a situation where multiple redemption offers would be encouraged by a mischievous borrower, the members of the public would be dissuaded and discouraged from participating in the auction process and the overall sanctity of the auction process would be frustrated thereby defeating the very purpose of the SARFAESI Act. Thus, it is in the larger public interest to maintain the sanctity of the auction process under the SARFAESI Act.*

*88. In view of the aforesaid discussion, we hold that as per the amended Section 13(8) of the SARFAESI Act, once the borrower fails to tender the entire amount of dues with all cost & charges to the secured creditor before the publication of auction notice, his right of redemption of mortgage shall stand extinguished / waived on the date of publication of the auction notice in the newspaper in accordance with Rule 8 of the Rules of 2002."*

The Court firmly established:

a) The amended Section 13(8) of the SARFAESI Act limits and supersedes the borrower's general right of redemption under Section 60 of the Transfer of Property Act.

a) Under Rule 8 of the Security Interest (Enforcement) Rules, 2002, the borrower is barred from discharging the mortgage once the auction notice is made public.

b) Any other interpretation would defeat the purpose of SARFAESI and undermine the confidence of participants in public auctions.

As per the amended Section 13(8) of the SARFAESI Act, once the borrower fails to tender the entire amount of dues with all costs and charges to the secured creditor before the publication of auction notice, his right of redemption stands extinguished. The Supreme Court, has unequivocally upheld this legislative intent, reaffirming that the SARFAESI Act is a special law that takes precedence over general laws such as the Transfer of Property Act, wherever applicable. The Significance of the 2016 Amendment to Section 13(8) of the SARFAESI Act was:

- a. To eliminate legal ambiguity regarding the timing of redemption rights
- b. To reinforce the integrity and sanctity of the auction process
- c. To bring certainty and finality to sales concluded under SARFAESI
- d. To shield genuine auction purchasers from vexatious or strategic litigation by defaulting borrowers.

Against the backdrop of a growing crisis of Non-Performing Assets (NPAs) in the Indian banking sector, the Landmark judgment by the Apex Court strengthens the legal framework of the securitization regime and reinforces investor and institutional trust in the recovery process.



## KNOW YOUR LAWS

### Bank Deposits: Why Nomination Matters

Nomination provisions are essential in a banking company for ensuring smooth transition of the funds in case of depositor's demise. Section 45ZA of The Banking Regulation Act, 1949 ("BR Act") specifically deals with the nomination rules for deposit accounts held with banks and these rules intend to simplify the process for legal heirs to claim funds in the event of depositor's death. These rules also provide clarity on the process of nomination, and changes to the nominations and responsibilities of both depositors and banks.



#### **Section 45ZA: Legal Framework for Nomination**

Section 45ZA of the BR Act, allows a depositor to nominate an individual or individuals to receive deposit in case of their death.

- According to the rules, a nominee can be any individual who is trusted by the depositor, the nominee does not have to be a family member, but the banks usually advise customers to nominate a close relative to avoid future complications.
- If the nominee is a minor, a guardian is appointed who will be responsible for managing the funds until the minor attains majority.
- The nominee is not the sole owner of the funds in the account; he only receives the funds in trust for legal heirs in case the depositor dies intestate.
- The bank is discharged from its liability in respect of a deposit when it makes payment to the after the death of the depositor, as per the nomination rules. This legally fulfills the bank's obligation to the depositor.

#### **Difference between Nominee and Legal Heir:**

- A nominee is a person appointed to receive the proceeds of the deceased temporarily, acting as a trustee or custodian, whereas a legal heir is the rightful inheritor of those proceeds as per succession laws or valid will.
- While a nominee may be designated for convenience, they do not automatically become the owner unless they are also a legal heir.

Thus, the ultimate right to inherit lies with the legal heir, who can claim the proceeds even if they were initially transferred to the nominee.

#### **Nominee's Rights and Limitations:**

- While a nominee is legally entitled to receive the deposit amount after the death of the depositor, the nominee is not the ultimate owner of the funds. The nomination merely facilitates the transfer of the depositor's balance to nominee, but it does not override any legal claims made by the legal heirs of the deceased depositor.
- If the depositor had a valid will, then the nominee must hand over the funds to the beneficiaries named in the will. The nominee is obligated to transfer the funds to the legal heirs if the depositor dies intestate and so is responsible for distributing the funds to the rightful legal heirs according to inheritance laws.

#### **Nomination Process:**

- The process of nominating a beneficiary is simple but it is important to ensure that both the depositor and bank follow the correct procedure for the nomination to be legally valid.
- Appointment of Nominee: - when opening a new account, the depositor can choose to appoint a nominee at the time of account opening but for an already existing account, the account holder can submit nomination form to the bank to nominate a person for the first time.
- The Banking Laws (Amendment) Act 2025 allows up to four nominees, whereas previously it was limited to one. Although it is not mandatory to nominate, it is highly recommended as nomination would smooth the fund transfer.
- Nomination Form: - the form (Form DA 1) requires details like, name & address, relationship with the account holder, date of

birth (if nominee is a minor), guardian's details in case of minor as nominee, signatures, witness signatures. It is necessary to provide accurate details to avoid complications later.

- Registering the Nomination: - once the depositor submits the nomination form to the bank, the bank will register the nomination, and this registration ensures that in case of depositor's death the bank will recognize the nominee and transfer the proceeds immediately.
- Revoking Nomination: - the account holder has the right to modify or revoke the nomination at any point.
- Bank's Role and Responsibilities: - banks are required to maintain accurate records of the nominee details and ensure the nomination is processed according to the legal framework. If the account holder dies, the bank must ensure the following:
  1. Verify the nominee details as per records
  2. Confirm the legal status of the nominee
  3. Must ensure that the funds are released to the nominee only after satisfying necessary formalities
  4. In a joint account with a survivorship clause, the depositors automatically receive the proceeds upon the death of one depositor and the nominee's claim would be secondary. The nominee's role as beneficiary is usually triggered only after the death of all the depositors.

### Disputes related to Nomination:

The nomination process, while straightforward, may lead to disputes in cases where there are conflicting claims from multiple individuals.

- In the absence of a will, the legal heirs may contest the nomination if they believe that the nominee was not the intended beneficiary or if there is an injustice in the nomination.
- In the case of a joint account, both the depositors may nominate different people which could lead to confusion regarding the rightful nominee. However, to resolve such disputes the bank is legally bound to release funds to the nominee after proper due diligence, as when the nomination is made in favor of more than one person then it shall explicitly state the proportion of amount of deposit in percentage in favor of each nominee.

### Judicial Precedents:

In **Vineet Kumar Sharma v. Union of India** [W.P.(C) No. 7180 of 2010], the Delhi High Court held that under Section 45-ZA of the Banking Regulation Act, a nominee is entitled to receive the funds from a deceased depositor's bank account, and the bank is discharged of its liability upon such payment. However, the court clarified that the nominee does not become the absolute owner of the funds; instead, the amount received forms part of the deceased's estate and remains subject to succession laws. Therefore, while the nominee can collect the money, legal heirs can still assert their rights through proper legal proceedings.

In **Ram Chander Talwar v. Devender Kumar Talwar** [(2010) 10 SCC 671], the Supreme Court held that a nominee under Section 45-ZA of the Banking Regulation Act is merely a trustee or custodian of the funds and does not acquire ownership rights over them. The nomination facilitates easy withdrawal of money from the bank after the depositor's death but does not override the rights of legal heirs under succession laws. Thus, while the bank is discharged of liability by paying the nominee, the nominee holds the money on behalf of the rightful heirs, and the funds remain part of the deceased's estate.

In **Vidyaa Hari Iyer v. Sundaram Finance Ltd.** [O.P. No. 953 of 2018], the Madras High Court confirmed that while banks must pay nominees under Section 45ZA, however, presenting a succession certificate that allows the legal heirs to assert inheritance rights and so the priority rights shifts from nominee's receipt rights to lawful succession.

Conclusion:

The nomination process under Section 45ZA of the Banking Regulation Act, 1949, thus is a crucial aspect of banking operations that ensures smooth transitions of the accounts upon the death of the depositor. It provides a clear legal pathway for transferring deposits to the nominee, avoiding unnecessary complications for the surviving family members or legal heirs. However, while nominations simplify the process, it is important to understand that a nominee is not the legal owner of the funds, he simply acts as a trustee who is responsible for passing the proceeds on to the rightful legal heirs. Therefore, depositors should ensure that their nominations reflect their true intentions, and banks must follow due diligence procedures to protect the rights of both the depositor and the nominee.

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