

**Scheme of arrangement/compromise sanctioned u/s 391 of the Companies Act cannot be unilaterally frustrated by a secured creditor by invoking the provisions of the SARFAESI**

The Calcutta High Court in the case of **ARCL Organics Ltd. Versus Stressed Asset Stabilization Fund**. [CA 136 of 2017] dated June 30, 2025, has held that a scheme of arrangement/compromise sanctioned under section 391 of the Companies Act, 1956, has statutory force and it cannot be unilaterally frustrated by a secured creditor by invoking the provisions of the SARFAESI Act, 2002.

Briefly, the applicant and its creditor, including the respondent, who happens to be a secured financial institution, entered into a sanctioned scheme of compromise. As per the compromise, the applicant company was required to pay the settlement amount. However, the applicant allegedly defaulted in repayment between April 2010 and July 2011, which led the respondent to issue a section 13(2) SARFAESI Act notice in November 2011. Despite the notice, the creditor continued to receive payments under the scheme. The application was filed, praying for the execution of an order sanctioning a scheme of arrangement/ compromise under section 391(2) of the Companies Act, 1956, as a deemed decree within the meaning of CPC, 1908. The applicant argued that the arrangement/compromise scheme, being statutorily sanctioned, could not be unilaterally frustrated by the respondent, and it can only be done by approaching the Company Court u/s 392 of the Companies Act, 1956.

The High Court observed that ordinarily there is no scope for either of the parties to unilaterally rescind a scheme of arrangement duly sanctioned by a Court. Further, the respondent has accepted the entire amount along with interest and has not acted further after issuance of notice u/s 13(2) of the SARFAESI Act; thus, it cannot be concluded that it has resiled from the said scheme or could have unilaterally resiled from the compromise.

The High Court also observed that “the provisions of Sections 34 and 35 of the SARFAESI Act cannot be construed to give unilateral powers to the respondent to reopen issues that have been closed, especially having regard to the scheme of compromise being sanctioned by the Company Court under Section 391 of the said Act. The Court, therefore, directed the respondent to issue “No Objection” for the release of all the charges on the assets and properties of the applicant.

**Link**

[https://hcservices.ecourts.gov.in/ecourtindiaHC/cases/display\\_pdf.php?filename=eISc8sUCYnQFBVP%2BVeJCOF%2BC70jseNq2aLWD78xxJycgZTt3YdqWSQTz6IqohN0v&caseno=CA/136/2017&cCode=1&cino=WBCHCO0000182017&state\\_code=16&appFlag=](https://hcservices.ecourts.gov.in/ecourtindiaHC/cases/display_pdf.php?filename=eISc8sUCYnQFBVP%2BVeJCOF%2BC70jseNq2aLWD78xxJycgZTt3YdqWSQTz6IqohN0v&caseno=CA/136/2017&cCode=1&cino=WBCHCO0000182017&state_code=16&appFlag=)