

**Mere possession over assets of the Corporate Debtor u/s 13(8) of the SARFAESI Act does not confer any title on the Creditor**

The NCLT Kochi in the case of **Muthoot Fincorp Ltd vs Orchid Valley Buyer's Association Apartment [IA (IBC)/57/KOB/2025 in IA (IBC)/215/KOB/2023]** dated June 24, 2025, has held that mere possession over assets of the Corporate Debtor under section 13(8) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) does not confer any title on the Creditor, and a title over the property passes to the purchaser only after a valid sale.

Briefly, the Applicant submitted that they remained completely unaware of the reinstatement of the Corporate Insolvency Resolution Process (CIRP) or the approval of the Resolution Plan, despite being in lawful possession of the subject property under the SARFAESI Act, 2002. Opposing the same, the Respondent submitted that the ownership arises only upon successful auction, issuance of a sale certificate, and its registration under the Registration Act, 1908. As such, mere possession is not equivalent to ownership, especially when CIRP has commenced, and all other proceedings stand stayed under Section 14 of the Insolvency and Bankruptcy Code, 2016 (IBC).

The NCLT observed that the basic facts, like fraud, misrepresentation, or alleged lack of jurisdiction, based on which an order can be recalled, are missing in this case. While the Applicant states that he became aware of the insolvency proceedings only upon receiving a caveat notice, the Respondent has proved with evidence the prior communication, which the Applicant has also acknowledged.

The NCLT further observed that the proceedings under the SARFAESI Act do not confer any title or interest on the creditor. Sale or possession is taken under this Act without the intervention of the court, and title is conferred on the purchaser only after a valid sale. Therefore, mere possession under section 13(8) of the SARFAESI Act over the assets does not entitle the Applicant to claim any interest. The NCLT concluded that since the Applicant consciously stayed away from the insolvency proceedings and relied solely on the SARFAESI proceedings, his conduct amounts to waiving his right to participate in the CIRP.