LOKPAL OF INDIA
Plot No.6, Institutional Area, Phase-II
Vasant Kunj, New Delhi - 110070
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Complaint No.	:	194/2024
Date	:	27.09.2024
Coram	:	**Shri Justice A.M. Khanwilkar** **Chairperson** **Shri Justice L. Narayana Swamy** **Judicial Member** **Shri Justice Sanjay Yadav** **Judicial Member** **Shri Sushil Chandra** **Member** **Shri Justice Ritu Raj Awasthi** **Judicial Member** **Shri Pankaj Kumar** **Member** **Shri Ajay Tirkey** **Member**

ORDER

1. Vide Order dated 06.09.2024, Full Bench directed the complainant to cure the defects in the complaint before 20.09.2024. The complainant has cured the defects and the Scrutiny has put up the complaint for the consideration of the Bench.

2. The complaint is against various officers of the State Bank of India. The complainant has alleged that his family members have taken loans from the SBI under CGTMSE Scheme of the Government and working Capital Loan. He has given his property as a guarantor against the same loans. It is alleged that the Bank has wrongly declared loans as Non Performing Asset (NPA) and have hastily auctioned his residential property under Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act) for not fulfilling their monetary gratification, amounting to corruption. The Authorised officer of SBI issued Demand Notice on 06.08.2013 for the Term Loan Account and engaged a Recovery Agency without following due procedures and waiting period of sixty days and seized the vehicles. It is also alleged that the Demand Notice was issued by Authorized Officer of SBI is fabricated, misleading and false amounting to cheating the borrower and misleading the Government and the MSME vision at large. It was also mentioned that he had also taken up the issue with Banking Ombudsman also.

3. We have perused the complaint and the various documents attached with the complaint. It is noticed from the details submitted by the complainant that the loans to the family concerns of the complainant was sanctioned in the year 2010 and 2012. The

said loan accounts were declared as NPA on 27.06.2013 and the bank issued the Demand Notice under section 13(2) of the SARFAESI Act on 06.08.2013 to the borrowers and the guarantors.

4. The complainant had offered his property as security to the CC Limit given to borrower. The physical possession of the property was taken on 24.12.2013 by Advocate Commissioner, as per orders passed by the Chief Judicial Magistrate (CJM). Later, the said Advocate Commisisoner delievered the possession to the Bank. The complainant filed Writ Petition No. 10767 of 2014 before Hon'ble High Court against the order of CJM, which was dismissed on 22.06.2015 as infructuous. The guarantor also filed Securitisation Appeal againt SARFAESI action before DRT which was also dismissed on 09.11.2017. Against the Auction Notice, the guarantor had filed Writ Petition No. 25562 of 2023 on 26.09.2023 in the High Court which was dismissed on 16.10.2023. The Guarantor i.e., the complainant had filed an appeal in Supreme Court by way of Special Leave Petition (C) with Diary No. 48684 of 2023 on 23.11.2023 against the Order in Writ Petition No. 25562 of 2023 passed by the Hon'ble High Court of Andhra Pradesh at Amrawati and SLP (C) was listed on 08.01.2024 and the same was dismissed on 08.01.2024 stating that "we do not find any ground to interfere with the impugned order dated 16.10.2023

passed by the High Court of Andhra Pradesh. The Petitioner, if so advised, may approach the DRT/DRAT in accordance with law"

5. From the above facts, it is clear that the classification of loans as NPA and recovery proceedings have been initiated in the year 2013 which are beyond the period of seven years from the date of filing of complaint. The issue of Auction Proceedings have also attained finality vide decision of the Hon'ble Supreme Court. Therefore, considering the provisions of Section 53 of the Act, 2013, the Lokpal cannot entertain the complaint being founded on allegations regarding acts of commission and omission which are barred by Limitation.

6. Accordingly, the complaint is disposed of.

(Sd/-
(Justice A.M. Khanwilkar)
Chairperson

Sd/-
(Justice L. Narayana Swamy)
Judicial Member

Sd/-
(Justice Sanjay Yadav)
Judicial Member

Sd/-
(Sushil Chandra)
Member

Sd/-
(Justice Ritu Raj Awasthi)
Judicial Member

Sd/-
(Pankaj Kumar)
Member

Sd/-
(Ajay Tirkey)
Member

(Court Master)

(SK)