

Mathew Varghese v. M. Amritha Kumar and Others

Civil Appeal Nos. 1927-1929 of 2014

[2014] 2 SCR 736 | 2014-02-10

Tax-recovery companion: incorporated auction procedure, SARFAESI sale and directions for payment to the Tax Recovery Officer.

Income-tax Act, 1961: Second Schedule, Part I, rule 15 | Recovery of Debts Due to Banks and Financial Institutions Act, 1993: section 29 | SARFAESI Act, 2002: historical sections 13(1), 13(8), 35 and 37 | Security Interest (Enforcement) Rules, 2002: historical rules 8 and 9 | Transfer of Property Act, 1882: section 60; Constitution: Article 300A

Two-judge Bench | A.K. Patnaik, J. | Fakkir Mohamed Ibrahim Kalifulla, J.

Historical redemption rule - not present-law clearance

The 2014 decision applies the earlier section 13(8). Celir (2023), paragraphs 49-50 and 65-68, distinguishes that text after the 2016 amendment. Do not use this note to assert a present right to redeem until conveyance.

Tax-credit account discrepancy in the primary report

Paragraph 60(B) prints credit to the appellant's account, while reserving respondents 1-2's refund remedy; paragraph 54 and 60(C) refer to the borrowers' accounts. This note does not silently correct the direction or identify the proper credit account. Verify the operative record or obtain clarification before implementing it.

01 FACTS OF THE CASE

Guarantors mortgaged property for a company's bank facility. After a proposed September 2007 auction was postponed by the High Court, the bank accepted Mathew Varghese's earlier tender immediately after the DRT dismissed the guarantors' application in December 2007, without a fresh sale notice. The High Court conditionally set aside the sale if the borrowers paid Rs 2 crore within two months; their default initially confirmed the purchaser's sale. Later orders extended time and substituted another buyer. The purchaser challenged both the original judgment and the extensions. An outstanding Tax Recovery Officer demand also affected the surplus sale proceeds.

Source: [Facts and tax-demand background, paragraphs 2-13](#)

02 DISCUSSION BY THE HON'BLE COURT

Under the then section 13(8) and rules 8-9, the Court required clear thirty-day borrower notice and prescribed publicity, protecting the opportunity to redeem and obtain a fair price. Sections 35 and 37 made compatible RDDB provisions complementary to SARFAESI. RDDB section 29 incorporated the Income-tax recovery schedules with necessary modifications. Second Schedule rule 15(2) required fresh proclamation when an immovable-property sale was adjourned for more than one calendar month, unless waived by the defaulter. The Court found this compatible with SARFAESI. Where a duly notified sale did not occur for reasons not solely attributable to the borrower, the earlier notice could not support a later sale without following the procedure afresh. This was operative recovery-procedure analysis, not a determination of income-tax liability.

Source: [Rule 15 incorporation and application, paragraphs 41-51](#)

03 JUDICIAL DECISION

The bank's sale procedure was defective, but the borrowers had not complied with the High Court's two-month condition. The Court upheld the original conditional judgment and set aside the later extensions/substituted-sale orders. It preserved the purchaser's sale only subject to an additional Rs 76 lakh payment within four weeks of receipt of the judgment. The substitute buyer's Rs 2.03 crore deposit was to be returned with 18% interest within two weeks of production of the order. After adjusting its dues, the bank was directed to remit the original sale surplus with 18% accrued interest to the Tax Recovery Officer under the demand; paragraph 60(B)'s credit-account discrepancy is expressly flagged above. The additional Rs 76 lakh was to be held in an interest-bearing account and applied to any further tax demand in respondents 1-2's names; absent tax due, it was to be released to them. Refund claims remained for the competent tax authority.

Source: [Conditional sale and TRO directions, paragraph 60\(A\)-\(D\)](#)

04 OUTCOME / IN WHOSE FAVOUR

The appeal against the 8 March 2010 judgment was dismissed; the appeals against the 18 June and 8 July 2010 orders were allowed, without costs. Relief to the purchaser was conditional, not an unconditional validation of the original process. Failure to deposit the additional Rs 76 lakh automatically cancelled the sale and triggered the refund/reauction sequence in paragraph 60(E). After the specified purchaser repayments, any remaining proceeds would go to the borrowers only after meeting pending income-tax and other statutory demands. The Court did not decide the amount or validity of those demands or grant an unconditional refund.

Source: [Default consequences and mixed disposition, paragraphs 60-61](#)

05 AKHB REVIEW POINT

AKHB analysis: reconcile the loan adjustment, original surplus, additional sale consideration, accrued interest, each TRO demand and the person entitled to tax credit before releasing funds. Obtain clarification of paragraph 60(B)'s inconsistent account wording rather than treating the purchaser as the assessed taxpayer. Preserve independent statutory refund remedies and do not infer that bank recovery determines tax quantum or priority. For sale procedure, identify the version of section 13(8) and the rules applicable to the transaction. Celir (2023), paragraphs 49-50 and 65-68, expressly distinguishes the post-2016 redemption regime; the 2014 reasoning cannot establish today's redemption deadline. Check the full later authorities and any case-specific orders before reliance.

Source: [Primary tax-payment and refund directions](#); [Celir, paragraphs 65-68 / SCR 122-123: historical-law limitation](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Common judgment, paragraphs 1-61, SCR 754C-796 (PDF pp.19-61); reporter material separately distinguished. Celir was consulted only for the stated historical-law warning, not a complete subsequent-treatment review.

[Open cited source rendition](#)

The report variously calls the incorporated rule 'Income Tax Rules, 1962'; its quotation at SCR 780 identifies Second Schedule, Part I, rule 15, which this note follows.

Paragraph 58 prints 08.06.2010 once; the repeated chronology fixes expiry on 08.05.2010 and crystallisation from 09.05.2010. No formal correction is represented.

The operative Rs 76,00,000 additional-payment order is retained, not recalculated from the earlier Rs 1,27,00,101 bid.

STATUTORY SCOPE

Tax-recovery companion, not an assessment appeal. Historical section 13(8); no ruling on tax quantum, priority or refund entitlement.

LATER TREATMENT

Source checked 2026-10-14. Celir (2023 INSC 838), paragraphs 49-50 and 65-68, identifies partial legislative overruling on redemption after the 2016 amendment. This bounded comparison is not comprehensive later-treatment or current-law clearance.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 61](#)

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