

**BEFORE THE RECOVERY OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**

**Certificate No. 0436 of 2014**

**Defaulter: M/s Four Season Farms Limited**

Mr. Radheshyam Sharma.....Applicant

**ORDER UNDER RULE 11 OF THE SECOND SCHEDULE TO THE INCOME-TAX ACT, 1961 READ WITH SECTION 28A OF THE SEBI ACT, 1992 IN THE MATTER OF FOUR SEASON FARMS LIMITED.**

**BACKGROUND:**

1. Securities and Exchange Board of India (SEBI) vide order dated February 13, 2002 directed M/s Four Season Farms Limited (hereinafter referred to as 'Defaulter') to refund Rs.15.20 crore collected in violation of SEBI (Collective Investment Schemes) Regulations, 1999 together with assured returns, interest, cost, etc. to the investors.
2. Since the Defaulter failed to refund the monies so collected, recovery proceedings were initiated by SEBI against the Defaulter under Recovery Certificate No. 436 of 2014 dated September 19, 2014. A Notice of Demand dated September 19, 2014 was issued to the Defaulter directing them to make the payment of the aforementioned amount within 15 days and vide Notices of Attachment dated September 19, 2014, the bank/demat accounts and mutual fund folios of the defaulter were attached.
3. In spite of the said notices, the Defaulter failed to pay the entire dues and the amount available in the bank/demat accounts of the Defaulter was insufficient to pay the entire dues, as detailed in the Recovery Certificate No. 436 of 2014. Therefore, the Recovery Officer, SEBI vide Prohibitory order dated November 21, 2014 under section 28A of SEBI Act, 1992 read with Rule 16 and 48 of the Second Schedule of the Income-tax Act, 1961, prohibited the Defaulter from disposing, transferring, alienating or charging in respect of:
  - a. *"all the immovable properties held by the Defaulter including the following:*

- i. *17 flats in Vasundhara Building, situated at Plot No. 620 (Pt), Bengali Compound, behind Minaxi Tower, Gokuldharm, Goregaon (East), Mumbai – 400063*
- ii. *252.06 acres of agricultural land at Taluka: Mahad and Mangaon with approx. 500 cashew trees and 40,000 teakwood trees.*
- iii. *Prawns Hatchery Plant at Village: Kothrude, Taluka: Mahad District: Raigad*

b. *All other movable properties held by the Defaulter.”*

4. Further, the abovementioned Prohibitory Order dated November 21, 2014 also directed the Defaulter to furnish the following:

- a. *“complete details of all the movable and immovable properties held by the defaulter and charges, if any thereon in the format prescribed in the Annexure, duly certified by the Board of Directors within one week from the date of this order.*
- b. *copies of all the title deeds, valuation reports of all the properties held by it within two weeks from the date of this order.*
- c. *list of all schemes floated by the defaulter along with brochure/ scheme information document for each of the schemes and details of all activities undertaken under each of the schemes within two weeks from the date of this order.*
- d. *complete list of all investors along with address, telephone number, bank details, details of investments, the amounts due in each of the schemes etc., both in electronic and physical form within one month from the date of this order.”*

5. At this point of time, the Defaulter challenged the said recovery proceedings initiated by SEBI in Appeal No. 62 of 2015 before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'the Hon'ble SAT'). In appeal, the Defaulter contended that the amount collected from the investors have already been refunded pursuant to the proceedings initiated under the Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act, 1999 (MPID Act).

6. Accordingly, the Hon'ble SAT vide order dated August 4, 2016 disposed of Appeal No. 62 of 2015, and observed as under:

*"If the amount is already refunded, the proper course for the appellant is to satisfy the Recovery Officer with facts and figures and by furnishing*

*requisite particulars called for and not to challenge the order passed by the Recovery Officer by filing an appeal before the Tribunal.*

*In these circumstances, the counsel for the appellant seeks to withdraw the appeal and seeks four weeks' time to furnish requisite particulars called for by the Recovery Officer.*

*Accordingly, the appeal is allowed to be withdrawn and the appellant is granted four weeks' time to furnish the particulars as per the list set out in the impugned order dated November 21, 2014."*

7. However, the Defaulter failed to furnish any of the details of repayment to the investors or the information directed to be submitted by the Recovery Officer (in the order dated November 21, 2014) within four weeks' time as directed by the Hon'ble SAT, i.e. by September 6, 2016. Subsequently, the Defaulter vide letters dated September 7 and September 26, 2016, informed SEBI that there are no investors whose claims remain unsettled and requested for extension of time till October 4, 2016 for complying with the Hon'ble SAT's order as the records are in the custody of the Hon'ble MPID Court/ Economic Offences Wing (EOW). Since sufficient time had already been given to the Defaulter, the Recovery Officer, SEBI vide letters dated September 14, 2016 and October 4, 2016, directed the Defaulter to submit the information regarding repayment made to the investors and other details as per the directions of SEBI and the Hon'ble SAT.
8. Vide letter dated October 5, 2016 the Defaulter submitted six volumes of photocopies of documents claimed to be pertaining to repayments made to the investors. After analysing the said documents and submissions of the Defaulters, Recovery Officer, SEBI passed an order on November 22, 2016 holding that it would not be possible to conclude that the Defaulter has repaid the entire money to the investors. Accordingly, the claim of the Defaulter that it had repaid entire dues to all the investors was rejected.
9. The Recovery Officer, SEBI, thereafter proceeded to dispose-off the attached assets and in this regard, Notice of Sale for e-auction of 17 flats in Vasundhara Co-Op. Housing Society Limited, Vatika Road, Off Film City Road, Gokuldham, Goregaon (East), Mumbai – 400063 was issued by SEBI on August 10, 2018, *inter alia*, against the properties of the Defaulter and the same was published in Times of India, Lokmat and Dainik Jagran.
10. Against the said Notice of Sale for e-auction, Cello Infrastructure Limited filed Writ Petition No. 1951 of 2019 before the Hon'ble High Court of Bombay on September 6, 2018 seeking to direct SEBI to abstain from auctioning said flats. Vide order dated September 12, 2018, the Hon'ble High Court of Bombay

granted an interim order and directed that, the auction scheduled to be held on the said date be proceeded with however, SEBI shall not take any decision with regard to finalization of the auction. It may be noted that no bids were received in the above mentioned e-auction. Therefore, the auction could not be finalized. Subsequently, an Interim Application No. 40552 of 2022 was filed before the Hon'ble High Court of Bombay by Vasundhara Co-Op Housing Society Limited challenging the attachment of said flats by SEBI.

11. Subsequently, the Hon'ble High Court of Bombay vide order dated October 17, 2023 disposed of the said Interim Application along with the Writ Petition No. 1951 of 2019, and observed as under:

*"2. We have heard learned counsel for the parties, as also having perused the record, we are of the opinion that of the petition in regard to the prayers as made, need not proceed for adjudication any further, suffice it to observe, that in the event, the SEBI has any future plans to auction the property, a 14 days' notice of such auction shall be issued to the petitioners, so as to enable the petitioners to assert any challenge to the same, if the petitioners so desire.*

*3. ...the interveners are free to assert their rights, if any, in regard to the said property in a manner known to law and / or in defending any action, if any resorted by the SEBI against the interveners."*

12. In compliance of the above-said order, vide letter dated May 14, 2025, a 14 days' notice was given to the petitioners as well as the Intervenor in Writ Petition No. 1951 of 2019 wherein a list of flats to be auctioned was provided. Vide the said letter, the Petitioners and Intervenor in the aforesaid Writ Petition were given 14 days' time to assert any challenge to the proposed auction and the attachment of properties.

#### **WRITTEN SUBMISSIONS AND PERSONAL HEARING:**

13. Pursuant to the above notice, the Applicant, vide letter dated May 20, 2025, submitted the following in respect of Flat No. 703, Vasundhara Co-Op. Housing Society Limited, Goregaon (East), Mumbai –400063 (hereinafter referred to as **"Flat No. 703"**).
14. Vide the said letter dated May 20, 2025, the applicant has submitted the following:
- a. The applicant is the *bona fide* legal owner of Flat No. 703 and has been in peaceful possession of the same since 2017.

- b. In this regard, the applicant enclosed the following document along with the said letter:
  - i. Copy of registered documents dated November 17, 2017;
  - ii. Amended certificate of sale of said flat dated November 15, 2017;
  - iii. Share Certificate of Vasundhara Co-operative Housing Society Limited;
  - iv. Society Maintenance Bill;
  - v. Utility Bills (Electric and Gas Bill).
- c. Vide the said letter, the applicant has prayed for deletion of Flat No. 703 from the list of properties to be auctioned.

15. Considering the above written submissions of the Applicant, vide letter dated June 03, 2025, an opportunity of Personal Hearing on June 11, 2025 before the Recovery Officer, SEBI, was granted to the Applicant. In response to the above letter, the applicant vide e-mail dated June 10, 2025 requested for postponement of scheduled hearing. Accordingly, the scheduled hearing was postponed to June 30, 2025. The applicant appeared for hearing on June 30, 2025.

16. In the said hearing, the applicant made the following submissions that:

- a. One Mohammad Tanveer Ahmad had taken the facility of housing loan from the Jammu and Kashmir Bank Limited (hereinafter referred to as **“the Bank”**) against Flat No. 703 and created a charge in favour of the Bank;
- b. Mohammad Tanveer Ahmad defaulted to repay the loan amount and therefore, the Bank filed for Recovery Proceedings against Mohammad Tanveer Ahmad under Recovery No. 288/2017 with Mumbai Debts Recovery Tribunal– II (hereinafter referred to as **“DRT-II”**). Pursuant to the same, Flat No. 703 was put to sale under Recovery Proceeding by the order of DRT-II by way of e-auction on September 25, 2017;
- c. The applicant purchased Flat No. 703 in the said e-auction whereupon Sale Certificate dated November 15, 2017 was issued to the applicant by the Recovery Officer DRT-II. Furthermore, the said sale certificate was transferred to the Sub-Registrar of Assurances, Government of Maharashtra for completing the Registration formalities in respect of Flat No. 703 which was registered by the Sub-Registrar, Borivali - 4 vide entry no. 15385/17 dated November 17, 2017;
- d. The applicant has taken a Housing Loan from the Bank for an amount of Rs. 35,00,000/- for the purchase of Flat No. 703. In this regard, the

applicant has submitted a Deed of Simple Mortgage between the applicant and the Bank;

17. Further, the applicant vide e-mail dated July 05, 2025 submitted the scanned copy of the original agreement dated April 23, 2002 between Mohammad Tanveer Ahmad and M/s Harishree Enterprises in respect of Flat No. 703.

### **CONSIDERATION OF ISSUES:**

18. I have carefully perused the documents available on record, the order dated October 17, 2023 passed by the Hon'ble High Court of Bombay, the sale certificate issued by the Recovery Officer, DRT-II and the oral and written submissions and the documents submitted therein by the applicant. After examining the above, the issues for consideration in the instant matter is:

- a. Whether the Applicant in the present matter is the owner of the disputed property i.e. Flat No. 703?
- b. If the answer to the above is in the affirmative, whether the attachment issued by the Recovery Officer, SEBI vide Prohibitory Order dated November 21, 2014 in respect of Flat No. 703 is to be released or not?

19. Upon an examination of the facts of the matter, I note that Flat No. 703 was initially purchased by one Mohammad Tanveer Ahmad from M/s Harishree Enterprises. A Housing Loan Facility was availed by Mohammad Tanveer Ahmad in respect of Flat No. 703 from the Bank. Since Mohammad Tanveer Ahmad defaulted in repaying the loan amount, Recovery Proceedings were initiated against Mohammad Tanveer Ahmad by the Bank before DRT-II. I also note that neither M/s Harishree Enterprises nor the original purchaser i.e. Mohammad Tanveer Ahmad are the defaulters in the instant proceedings.

20. In the said Recovery Proceedings, Flat No. 703 was put-up for sale by way of e-auction on September 25, 2017 which was purchased by the applicant. Thereafter, a Sale Certificate dated November 15, 2017 was issued in favour of the applicant by the Recovery Officer, DRT-II.

21. As per the said Sale Certificate, the applicant has purchased Flat No. 703 for an amount of Rs. 51,20,000/- by way of e-auction held on September 25, 2017 in the Recovery Proceeding No. 288/2017 drawn by the Hon'ble Presiding Officer, DRT-II, Mumbai. The unsigned and undated sale certificate was forwarded to Superintendent of Stamps vide letter dated November 03, 2017 for adjudication of stamp duty and payment thereof. It is noted from the documents submitted by the applicant that the stamp duty of Rs. 2,56,000/- was paid by the applicant on November 13, 2017.

22. It is also noted that the signed and dated sale certificate dated November 15, 2017 was forwarded to Sub-Registrar of Assurance, Government of Maharashtra for registration formalities vide letter dated November 16, 2017 whereupon the same was registered by the Sub-Registrar, Borivali – 4 vide entry no. 15385/17 dated November 17, 2017.
23. As per the letter dated September 28, 2017 issued by the Bank, it is further noted that the applicant was sanctioned a housing loan of Rs. 30,00,000/- for the purchase of Flat No. 703 which was secured by way of equitable mortgage of Flat No. 703.
24. It is also noted that a share certificate of Vasundhara Co-operative Housing Society dated January 08, 2018 has been issued in favour of the applicant. Additionally, it is also noted that the applicant has been paying the Maintenance Charges along with utility bills in respect of Flat No. 703. From an examination of the above facts, I find merit in the submissions of the applicant that they are the owners of Flat No. 703.
25. In view of the aforesaid, I find that the applicant is the *bona fide* purchaser/owner of the Flat No. 703 and therefore, I hold the issue (a) under consideration in the affirmative.
26. Now, since the answer to the issue (a) is in the affirmative, it might be pertinent to refer to the judgement of the Hon'ble Supreme Court in the matter of ***Tax Recovery Officer II, Sadar v. Gangadhar Vishwanath Ranade [AIR 1999 SC 427]*** wherein the Hon'ble Court, while deciding on the issue of applications under Rule 11 of the Second Schedule to the Income Tax Act, 1961, held as follows:
- “12. ...if we examine Rule 11(4) of the Second Schedule to the Income-tax Act, it is clear that the Tax Recovery Officer is required to examine whether the possession of the third party is of a claimant in his own right or in trust for the assessee or on account of the assessee. If he comes to a conclusion that the transferee is in possession in his or her own right, he will have to raise the attachment [emphasis added].”*
27. From the consideration of issue (a) in preceding paragraphs, it has been established that the applicant is in possession of Flat No. 703 in their own right. Therefore, with regards to issue (b), I am of the view that the attachment dated November 21, 2014 issued by the Recovery Officer, SEBI on Flat No. 703, which stands in the name of the Applicant, is liable to be released.

**ORDER:**

28. In view of the above, for the reasons as stated in the preceding paragraphs, I hereby order release of the Flat No. 703, Vasundhara Co-Op Housing Society, Goregaon (East), Mumbai – 400063, from attachment made vide prohibitory order dated November 21, 2014 passed by the Recovery Officer, SEBI. The applicant's letter dated May 20, 2025 is accordingly disposed of.

29. A copy of this Order is to be served on the applicant.

Date: November 10, 2025

Place: Mumbai

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**Deepu Anandan**  
**Deputy General Manager & Recovery**  
**Officer**