DEBTS RECOVERY APPELLATE TRIBUNAL, DELHI

Appeal No.566/2018
Arising out of SA No.627/2017 (DRT-II, Chandigarh)

Item No. 13

Central Bank of India
V.
The Authorized Officer Bank of India & others

27.04.2026 Hon'ble Dr. Justice Sudhir Kumar Jain

Present: Sh. Anuj Jain, counsel for appellant
Sh. Aditya Kumar and Ms. Ila Nath, counsels for respondents 1 & 4
None for other respondents

This matter is taken up through Hybrid hearing.

1. The respondent no.2 was ordered to be served by way of substitution vide order dated 27.09.2019. The appellant had also filed affidavit of service upon respondent no.2 as reflecting from the order dated 21.11.2019. None has appeared on behalf of respondent no.2. The respondent no.2 is accordingly proceeded *ex parte.*

2. The respondent no.3 was also ordered to be served and the counsel for the appellant has already filed affidavit of service upon respondent no.3. None is appearing on behalf of the respondent no.3. Accordingly, respondent no.3 is also proceded *ex parte.*

I.A. No.928/2018 (application for condonation of delay filed by the appellant)

3. The instant application is filed seeking condonation of delay of 17 days in filing the present appeal. It is stated that the delay was caused due to the reasons as stated in the application. The application is contested by the respondents 1 and 4 by filing reply. After considering all facts and the reasons stated in the application, the 17 days' delay in filing the present appeal is condoned. The application stands disposed of.

Appeal No.566/2018

4. Heard counsel for the parties.

5. The challenge in this appeal is to the order dated 07.09.2018 whereby the DRT-II, Chandigarh in view of the judgment in **Oriental Bank of Commerce V. Canara Bank & others**, Appeal Nos.472/2010 and 8/2011, delivered by this Tribunal on 27.04.2011 held that the DRT-II, Chandigarh did not have jurisdiction to hear the matter and S.A. bearing No.627/2011 filed by the appellant was dismissed. The appellant being aggrieved by the impugned order dated 07.09.2018 preferred the present appeal

6. The respective counsels for the parties stated that in view of the judgment titled as **Bank of India V. M/s Sri Nangli Rice Mills Pvt. Ltd. & others**, Civil Appeal No.7110 of 2025, decided on 23.05.2025 by the Supreme Court the present appeal is not maintainable and the appropriate remedy which is available in *inter se* dispute between the contesting parties for the recovery of the outstanding dues is either conciliation or arbitration as per Section 11 of the SARFAESI Act.

7. Section 11 of the SARFAESI Act reads as under:-

> **11. Resolution of disputes.-**
>
> **Where any dispute relating to securitisation or reconstruction or non-payment of any amount due including interest arises amongst any of the parties, namely, the bank or financial institution or asset reconstruction company or qualified buyer, such dispute shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996 (26 of 1996), as if the parties to the dispute have consented in writing for determination of such dispute by conciliation or arbitration and the provisions of that Act shall apply accordingly.**

8. The relevant paragraphs of the above referred judgment are reproduced as under:-

62. Section 11 of the SARFAESI Act deals with resolution of disputes relating to securitisation or reconstruction or non-payment of any amount due including where such dispute is between the bank or financial institution or asset reconstruction company or qualified buyer and stipulates that such disputes i.e., those pertaining to the subject-matter provided therein and involves the parties stipulated thereto, shall be resolved by arbitration, as if such parties to the dispute had consented to resolve it by arbitration in terms of the Act, 1996. ....

63. From the plain language of Section 11 of the SARFAESI Act, it is manifest that the scope and ambit of the said provision have been limited or confined by the twin conditions laid therein, that have to be satisfied in order to attract the said provision being as under:-

(i) Where the dispute arises between:-
   a. any bank;
   b. any financial institution;
   c. any asset reconstruction company;
   d. any qualified buyer; and

(ii) Where the dispute relates to:-
   a. securitization of financial assets;
   b. reconstruction of assets;
   c. non-payment of any amount due and / or interest

78. The cases such as the present one, the authority to determine which bank holds the prior charge over the borrower's assets becomes a significant issue for consideration. There have been instances where such disputes have been referred to the DRT or civil courts for adjudication. The question of determining the priority of charge typically arises after the borrower defaults on their obligations and their assets are classified as NPAs. In such scenarios, two or more banks may assert competing claims over the same secured asset.

79. The dispute stems from the borrower's failure to discharge their debt obligations, including the amounts they were bound to pay to the banks. This non-payment gives rise to a conflict between the creditors regarding the hierarchy of their respective charges over the borrowers' assets. Consequently, the issue of priority of charge is inherently and intrinsically linked to the borrower's "non-payment of any amount due" as contemplated under Section 11 of the SARFAESI Act. This provision, therefore, would undoubtedly bring such disputes within its

ambit, and thereby mandate resolution of such disputes through conciliation or arbitration as prescribed under the Act, 1996.

9. In view of the above observation, the present appeal stands disposed of. The respective parties shall be at liberty to initiate appropriate legal proceedings as per the mandate of Section 11 of the SARFAESI Act.

Sd/-

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(Dr. Justice Sudhir Kumar Jain)
Chairperson

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