

DEBTS RECOVERY APPELLATE TRIBUNAL, DELHI

Appeal No. 93 of 2026

**(Arising out of order dated 23.04.2026 passed by DRT-I, Delhi
in TSA No. 17 of 2023)**

Reserved on: 19.05.2026

Pronounced on: 23.06.2026

**Tasleem
W/o Wazir Ahmed
R/o H. No. 2253/H, Mandir Wali Gali
Shadipur, Patel Nagar
Central District
Delhi-110008**

...Appellant

V

**1. Bank of Baroda
Through its Authorized person /officer
Branch Ashok Vihar
30, Community Centre
Ashok Vihar, Phase-1
Delhi-110052**

**2. Suresh Mandowara
S/o Shr. Rattan Lal Mandowara
R/o J-1112, Third Floor
Ashok Vihar, Phase-I
New Delhi-110052**

...Respondents

Hon'ble Dr. Justice Sudhir Kumar Jain, Chairperson

**For the Appellant : Sh.Brijballabh Tiwari, Advocate
For the Respondent No. 1 : Sh.Amit Mahaliyan, Advocate
For the Respondent No. 2 : Ms. Reena Jain Malhota, Advocate**

JUDGEMENT

1. The relevant facts as appeared from the record are that M/s Vaibhav Laxmi Impex Private Limited (hereinafter referred to as '**the borrower**') has availed overdraft facility of Rs.20 lacs in the year 2004 which was enhanced to Rs.200 lacs in 2013 against the personal guarantee of Chandra Kala Mandowara, Suresh Mandowara i.e. respondent no. 2 and Sh. Jeta Ram Chaudhary (now deceased) and the properties bearing Municipal No. 55962 to 5598, 56282 to 5624 on Plot No.34,

South Ward No. XIV, Basti Harphool Singh, Sadar Thana, Delhi admeasuring 15 sq.yds. (hereinafter referred to as '**the subject property**') which was stated to be owned by respondent no. 2 and the property situated at 2nd floor, Plot No. 112, Block J, Wazirpur Residential Scheme, Ashok Vihar, Delhi stated to be owned by Chandra Kala Mandowara were mortgaged. The borrower failed to maintain the account and was classified as NPA on 29.06.2016. The respondent no. 1/ Bank of Baroda (hereinafter referred to as '**the respondent no. 1**') issued notice under Section 13(2) of the Securitisation and Asset Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as '**the Act**') for Rs. 2,08,17,174.12 along with interest. The borrower submitted OTS proposal on 30.08.2016 which was rejected. The respondent no.1 also filed an application under Section 14 of the Act and the Court of CMM vide order dated 20.03.2017 appointed a receiver for taking possession of the subject property. Chandra Kala Mandowara filed S.A. bearing No. 143/2017 under Section 17 of the Act which was dismissed vide order dated 27.03.2018 by DRT-I, Delhi. The subject property was put to auction on 12.06.2018. The appellant was declared successful bidder as single bidder for Rs. 4.80 lakhs. The respondent no. 1 had carried out preliminary documentation and also noticed that the bid was exactly equal to the reserve price which cannot be confirmed without the consent of borrowers as per Rule 9 of the Security Interest (Enforcement) Rules 2002. (hereinafter referred to as '**the Rules**').

2. The respondent no. 1 also filed original application bearing No. 164/2017 titled as **Bank of Baroda V M/S Vaibhav Laxmi Impex Private Limited & others** under Section 19 of Recovery of Debts and Bankruptcy Act, 1993 for recovery of Rs. 2,08,17,174.12 along with interest and penal interest. M/s Vaibhav Laxmi Impex Private Limited being the borrower filed an application bearing I.A. No. 1018/2018 for redemption of the subject property/set aside the sale of the subject property on the ground that it has better buyer at Rs.5 lakhs against the bid amount of Rs.4.80 lakhs. The appellant also filed I.A. No. 1196-97/2018 seeking direction to handover the original documents of the subject property which was disposed of vide order dated 20.12.2018 as being not pressed. The respondent no.1 sent a letter dated 15.03.2019 for consent to the borrower and the borrower vide letter dated 17.03.2019 submitted that it was not satisfied with the value of property and vide letter dated 15.04.2019 informed that one Mukesh Chandra Maheshwari has shown interest in the subject property for Rs. 5.15 lakhs. The respondent no. 1 offered the

appellant either to participate in *inter se* bidding with proposed buyer of the borrower or to take the money back. However, the appellant filed the present S.A. now bearing TSA No. 17/2023 (old No.118/2019).

3. The appellant in S.A. stated that she participated in the bidding in pursuance of notice for auction of the subject property and became successful bidder. The appellant had deposited entire bid amount of Rs. 4.80 lakhs with the respondent no.1. The respondent no.1 issued the sale certificate and possession receipt in favour of the appellant and also original previous chain of documents besides keys of the subject property. The appellant also purchased stamp papers for registration of the property in question. However, the respondent no. 1 has taken back the previous chain of documents of the subject property and original possession receipt on the pretext of correction in the documents but these documents were never returned to the appellants. The respondent no. 1 also filed O.A. bearing No.164/2017 in which the appellant filed an application under Order I Rule 10 CPC which was withdrawn subsequently. The respondent no. 1 has also sealed the subject property with *mala fide* intention and without preparing any inventory. The appellant also stated that she had invested in the repairs and maintenance work and enjoyed peaceful physical possession of the subject property. The respondent no. 1 did not execute the sale deed and also refused to provide previous chain of documents of the subject property even after the issuance of sale certificate and possession receipt. The respondent no.1 sealed the subject property without any notice and any order by the DRT, which was illegal. The respondent no. 1 also filed a police complaint. The respondent no. 1 did not have right over the subject property after execution of sale certificate and was under legal obligation to execute the sale deed in favour of the appellant who was the highest bidder of the subject property.

3. The respondent contested S.A. by filing respective replies. The respondent no. 1 in reply stated the fact as detailed herein above. The respondent no. 2 stated that the borrower was sanctioned financial limit of Rs.20 lacs which was enhanced to Rs.200 lacs on mortgage of the properties including the subject property which was owned by the respondent no.2. The account of the borrower was declared NPA and notice under Section 13(4) of the Act was also issued. The borrower also offered OTS which was not accepted by the respondent no. 1. The borrower also filed the S.A. bearing No. 143/2017 on 02.12.2016 which was dismissed vide order dated 27.03.2018. The respondent no. 2 also filed the S.A. to challenge the auction

which is still pending. The subject property was put to auction on 12.06.2018 and the appellant was found to be the single bidder with bid of RS.4.80 lacs which was also the reserve price. The bid could not be confirmed without the consent of the respondent no. 2 as per the Rule 9(2) of the Rules. The respondent no. 2 also filed an application bearing I.A. No. 1018/2018 for redeem of the property /set aside the sale of the subject property in O.A. No. 164/2017 and offered better buyer at Rs.5 lacs against the bid amount of Rs. 4.80 lacs. The appellant also filed I.A. No. 1196-97/2018 seeking direction to handover the original documents of the subject property, which was disposed of vide order dated 20.12.2018 as being not pressed. The respondent no.1 also sought the consent of respondent no.2 for sale of the property vide letter dated 15.03.2019 which was replied to by respondent no.2 vide letter dated 17.03.2019 stating that it was not satisfied with the value of property. The borrower vide letter dated 15.04.2019 also submitted that one Mukesh Chandra Maheshwari has shown interest in the subject property for a price of Rs.5.15 lacs. The respondent no. 1 had offered the appellant either to participate in *inter se* bid or to take money back. The SA is liable to be dismissed as per mandatory provisions as contained in Rule 9(2) of the Rules.

4. DRT-I, Delhi vide impugned order dated 23.04.2026 dismissed the present SA and opined that the respondent no. 1 has followed the mandatory provisions as per the SARFAESI Act and the Rules thereunder and as such the present SA was liable to be dismissed being devoid of any merit. The relevant portion of the impugned order dated 23.04.2026 is reproduced as under:

10. Apparently, the property in question was put for auction on 12.06.218 at the reserve price of Rs.4.80 lacs and if the bid offered is same as the reserve price, then such sale could have been confirmed only with the consent of the borrower as per Rule 9(2) of the Security Interest (Enforcement) Rules, 2002. In the present case, the respondent bank has written a letter for obtaining the consent from the borrower and in reply the borrower has not given consent for confirmation of the aforesaid auction sale. Further, the auction sale could not have been confirmed because of the reason that the Authorised Officer has not obtained a price higher than the reserve price and thus, there is no illegality or irregularity measures taken y the respondent bank by cancelling the auction sale conducted by the respondent bank qua the property in question as per the Rule 9(2) of the Security Interest (Enforcement) Rules, 2002.

11. In view of the above facts and circumstances and SARFAESI Act and Rules, this Tribunal is of the view that the respondent bank has followed the mandatory procedures as laid down under the SARFAESI Act and Rules, while initiating measures for recovery of its dues,

therefore, the SARFAESI Application is liable to be dismissed being devoid merits. However, the respondent bank is free to take afresh action by auctioning the property in question by way of e-auction as per law so that the respondent bank can fetch more prices and the present securitization applicant is also at liberty to participate in the auction to be conducted by the respondent bank and the respondent bank shall also invite the present securitization applicant to participate in the proposed auction to be conducted by the respondent bank qua the property in question. Further, since the auction purchaser has invested the money by depositing the auction amount with the respondent bank and such money has been retained by the respondent bank, therefore, it would be appropriate to direct the respondent bank to return the auction money, if not returned, alongwith interest @FDR from the date of deposit till the date of release of the payment.

(ORDER)

The SARFAESI Application filed by the applicant stands dismissed along with pending applications, if any, and the respondent bank is at liberty to proceed further to recover its dues as per law. The respondent bank is hereby directed to return the auction money, if any, so deposited by the auction purchaser, to the auction purchaser within 30 days from date alongwith interest @FDR from the date of deposit till the date of release of the payment. The present order be uploaded immediately on the website of this Tribunal.

Final Order signed, sealed, dated and pronounced in the open court on this 23rd April, 2006.

Dictated & Corrected by me.

5. The appellant being aggrieved filed the present Appeal bearing No. 93/2026 and challenged the impugned order primarily on the grounds that the respondent no. 1 had itself issued the sale certificate and possession receipt and handed over the subject property to the appellant on 30.06.2018. The title of the subject property as such was vested with the appellant and after conclusion of the sale, no right is left with the respondent no. 1 in respect of the subject property. The respondent no. 2 did not challenge the auction and the auction was never cancelled. The respondent no. 1 has grossly misused the process of law and illegally put its lock and sealed the subject property which belonged to the appellant being the auction purchaser. The respondent no. 1 has with a *mala fide* intention sent a letter to the respondent no. 2 on 15.03.2019 for taking consent but without any authority or power after issuance of sale certificate on 30.06.2018. The respondent no. 1 was not having any *locus*, title or interest over the subject property after receiving of the complete sale consideration and issuance of sale certificate. The appellant has challenged the impugned order on various other grounds.

6. Sh. Brijballabh Tiwari, Advocate advanced arguments on behalf of the appellant. Sh. Amit Mahaliyan, Advocate advanced arguments on behalf of the respondent no.1 and Ms. Reena Jain Malhotra, Advocate advanced arguments on behalf of the respondent no.2. The relevant record including the written submissions on behalf of the contesting parties were also considered.

7. The counsel for the appellant argued that the DRT in the impugned judgement has failed to appreciate that the auction sale had attained finality as the appellant had deposited the entire sale consideration. The sale certificate dated 30.06.2018 was also issued. The possession of the subject property was also handed over to the appellant by the respondent no. 1 and thereafter, the respondent no. 1 had not left with any legal authority to interfere with the title and possession of the appellant. It is further argued that the appellant participated in the auction process and deposited EMD of Rs.48,000/- and was declared as successful bidder. The respondent no. 1 after receiving entire sale consideration confirmed the sale and issued the sale certificate besides handing over the possession of the subject property and delivery of possession receipt along with the previous title documents. The counsel for the appellant further argued that the respondent no. 1 had taken back the original possession receipt and previous documents on false pretext. The counsel for the appellant also raised issues which are whether the title vested absolutely in favour of the appellant after the issuance of sale certificate; whether the respondent no. 1 can interfere with the possession after the confirmation of sale; and whether consent of the borrower was required after the auction at reserve price in view of the various judgements passed by the Apex Court and whether the respondent no. 1 can take back the possession of the subject property. It was argued that the impugned order be set aside. The counsel during the course of argument has relied on:

- (i) **Mahipal Singh Yadav V. Union Bank of India & another**, WP(C) 357/2022 decided on 24.01.2022 by the High Court of Delhi,
- (ii) **Varghese Ukken& another V. State Bank of India & others**, WP(C) No.37498/2007 decided on 28.09.2010 by the Kerala High Court,
- (iii) **Valji Khimji & Co. V. Official Liquidator of Hindustan Nitro Product (Gujarat) Limited**, 2008 9 SCC 299,
- (iv) **Celir LLP V. Bafna Motors (Mumbai) Private Limited & others**, Civil Appeal Nos. 5542-5543/2023, decided on 21.09.2023 by the Supreme Court of India

8. The counsel for the respondent no. 1 besides referring factual position stated that the subject property was put to auction on 12.06.2018 wherein the appellant was the only bidder with a bid of Rs. 4.80 lacs. Thereafter, the preliminary documentation was carried out between the appellant and the respondent no. 1 but as the bid was exactly similar to the reserve price, in view of Rule 9(2) of the Rules, the bid could not be confirmed without the consent of the borrower. The respondent no. 1 vide letter dated 15.03.2019 sought consent from the respondent no. 2 for sale of the subject property at Rs. 4.80 lakhs and the respondent no. 2 vide reply dated 17.03.2019 stated that it was not satisfied with the value of the property at which it was sold. The respondent no. 2 vide letter dated 27.03.2019 and 09.04.2019 was requested to bring better buyer and the borrower vide letter dated 15.04.2019 produced one Mukesh Chandra Maheshwari who showed interest in the subject property for Rs. 5.15 lakhs.

9. The counsel for the respondent no.2 also argued that the appellant was given two options either to participate in the *inter se* bidding with the proposed buyer of the borrower or to take the money back but the appellant filed the present SA. The appellant herself had handed over the possession and document to the respondent no. 1 vide letter dated 30.07.2018. DRT-I, Delhi in the impugned order dated 23.04.2026 has considered all the relevant issues and rightly dismissed the present SA now bearing TSA No. 17/2023.

10. The counsel for the respondent no. 1 has relied upon the **Varghese Ukken & another V. State Bank of India & others**, WP(C) No.37498/2007 decided on 28.09.2010 by the Kerala High Court and **Dukkala Lakshmana Rao @ Dukkola Lakshmana Rao V. Sudulangunta Rama Rao**, Writ Petition Nos.27786 & 28572/2025 decided on 01.05.2026 by Andhra Pradesh High Court. It was prayed that the present appeal be dismissed.

11. It is reflecting that the respondent no.2 created the mortgage in respect of the subject property in favour of the respondent no.1 as security for the loan which was advanced to the borrower. The borrower could not pay the loan amount as per the financial discipline. The subject property was put to auction on 12.06.2018 and the appellant was declared successful bidder as a single bidder for Rs.4.80 lakhs. The respondent no.1 has executed preliminary documents in favour of the appellant in respect of the subject property. The appellant vide letter dated 30.07.2018 had returned the titled documents in respect of the subject property along with the possession receipt dated 30.06.2018 and sale certificate dated 30.06.2018. The

appellant has also undertaken to handover back the keys of the subject property to the respondent no. 1 till 06.08.2018. The reserve price of the subject property was Rs.4.80 lacs and the appellant has also given the bid for Rs.4.80 lacs which reflects that the bid as given by the appellant and the reserve price were exactly similar. The respondent no.1, as the bid price and the reserve price were similar, had sent a letter dated 15.03.2019 to the borrower for its consent who vide letter dated 17.03.2019 expressed its dissatisfaction with the value of the property at which it was proposed to be sold in auction and again vide letter dated 15.04.2019 produced one MukeshChandra Maheshwari who expressed his willingness to purchase the subject property for a price of Rs.5.15 lacs. The respondent no.1 thereafter offered the appellant either to participate in *inter se* bidding with the proposed buyer of the borrower or to take the money back. Thereafter, the appellant has filed the present T.S.A. bearing No.17/2023.

12. The issue between the parties as appearing from the above-mentioned facts is regarding the applicability of Rule 9(2) of the Rules which is reproduced as under:

The sale shall be confirmed in favour of the purchaser who has offered the highest sale price in his bid or tender or quotation or offer to the authorised officer and shall be subject to confirmation by the secured creditor:

Provided that no sale under this rule shall be confirmed, if the amount offered by sale price is less than the reserve price, specified under sub-rule (5) of [rule 8]:

Provided further that if the authorised officer fails to obtain a price higher than the reserve price, he may, with the consent of the borrower and the secured creditor effect the sale at such price.

13. The prime contention of the appellant which was also argued by the counsel for the appellant was that the subject property was never redeemed within the statutory period by the borrower and the guarantors and the interim application seeking redemption/ setting aside of the sale was also dismissed being not pressed by the respondent no. 2. The auction in favour of the appellant could not be set aside merely on the ground that subsequently the borrower has produced a buyer who offered a marginal higher value in respect of the subject property. The auction has attained finality after the issuance of possession receipt as well as the sale certificate. The counsel for the appellant has placed reliance on **Celir LLP V Bafna Motors (Mumbai) Private Limited & others** wherein it was held that after

publication of auction notice and failure to tender dues before such stage, the right of redemption stands extinguished. The counsel for the appellant also placed reliance on **Mahipal Singh Yadav V Union Bank of India & another** wherein as per the counsel for the appellant it was held that the borrower's consent is required only when the sale is below the reserve price. The counsel for the appellant also placed reliance on **Varghese Ukken & another V State Bank of India & others** wherein it was observed that if the sale price is equal to the reserve price then the consent of the borrower is immaterial. The reliance was also placed on **Valji Khimji & Co. V. Official Liquidator of Hindustan Nitro Product (Gujrat) Limited** wherein it was held once the sale was confirmed by the authority certain rights accrued in favour of the auction purchaser, and these rights cannot be extinguished except in exceptional case such as fraud.

14. The prime contention of the respondent no.1 which was also argued by the counsel for the respondent no.1 is that as per the proviso 2 attached to the Rule 9(2) of the Rules, the consent of the borrower is required if the sale price is equal to the reserve price. The counsel for the respondent no.1 also placed reliance on the decision delivered by the Kerala High Court in **Varghese Ukken& another V State Bank of India & others**. The counsel for the respondent no. 1 also placed reliance on the judgement delivered by the Division Bench of Andhra Pradesh High Court in **Dukkala Lakshmana Rao @ Dukkola Lakshmana Rao V Sudulangunta Rama Rao**.

15. The High Court of Andhra Pradesh in **Dukkala Lakshmana Rao's** case has considered divergent views on the issue involved in the present appeal regarding the scope of Rule 9(2) in view of the divergent opinion taken by the various High Courts. It was further observed that the Division Benches of the Madras High Court and the Delhi High Court in **K. Raamaselvam** and **Mahipal Singh** respectively had opined that the consent of the borrower is necessary and essential to confirm the sale exactly at the reserve price when the authorised officer could not obtain a price higher than the reserve price in the public auction. The High Court of Andhra Pradesh also referred decision of Division Bench of Calcutta High Court in **Kaberi Chakraborty V UCO Bank**, 2024 SCC OnLine Cal 1065 and Kerala High Court in **Varghese Ukken** wherein it was observed that the second proviso to Rule 9(2) does not require or necessitate consent of the borrower to confirm the sale exactly at the reserve price. The Andhra Pradesh High Court after making elaborate analysis of the decisions delivered by various High Courts

opined that the consent of the borrower is required to be obtained by the authorised officer to confirm the sale exactly at the reserve price when the authorised officer failed to obtain a price higher than the reserve price. The Andhra Pradesh High Court expressed its agreement with the decision of Madras High Court in case of **K. Raamaselvam V Indian Overseas Bank**, 2009 SCC Online Mad 1230 which was also referred by the DRT in the impugned order and decision delivered by the Delhi High Court in **Mahipal Singh Yadav**. It was also observed that as per the requirement contemplated under second proviso to Rule 9(2), the sale can be confirmed at the reserve price only with the consent of the borrower and not otherwise. The sale of the secured assets in the auction exactly at the reserve price cannot be confirmed by the authorised officer without the consent of the borrower.

16. This Tribunal expresses its agreement with the view taken by the Andhra Pradesh High Court as discussed hereinabove. The legal position as per the second proviso attached to the Rule 9(2) is mandatory in nature and cannot be diluted and legal proposition that the sale can be confirmed at the reserve price with the consent of the borrower cannot be ignored. The second proviso explicitly mandates that the sale can be confirmed at the reserve price only with the consent and confirmation of the borrower. The consent of the borrower as such is required when the sale price is equal to the reserve. There is no legal force in the arguments as advanced by the counsel for the appellant. DRT-I, Delhi in the impugned order has rightly observed that the respondent no.1 has followed the mandatory procedure as per the Act and the Rules thereunder and accordingly dismissed the TSA bearing No. 17/2023. There is no illegality or infirmity in the impugned order which warrants any interference by this Tribunal. Hence, the appeal is dismissed being devoid of any merit.



(Dr. Justice Sudhir Kumar Jain)
Chairperson