

Reserved on 25<sup>th</sup> June 2026  
Delivered on 1<sup>st</sup> July 2026

Misc. Appeal No.18 of 2026 & Misc. Appeal No. 20 of 2026 -DRAT-Kolkata

**IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT  
KOLKATA**

**HON'BLE MR. JUSTICE ANIL KUMAR SRIVASTAVA  
CHAIRPERSON**

Misc. Appeal No. 18 of 2026  
(Arising out of S.A. No. 142 of 2025 in DRT-III, Kolkata)

1. The Authorised Officer, AU Small Finance Bank Limited, 45, Jahhwtala Road, Fazul Haq Sarani, Ballygaunge, Kolkata – 700019.
2. AU Small Finance Bank Limited, 45, Jhawtala Road, Fazul Haq Sarani, Ballygaunge, Kolkata – 700019.

....Appellants

-Versus-

1. Agarwal Pipe and Fittings, 1<sup>st</sup> Floor, 36A, B.T. Road, Belgharia, North Twenty-Four Parganas – 700056.
2. Madhusudan Ajitsaria, 1<sup>st</sup> Floor, 36A, B.T. Road, Belgharia, North Twenty-Four Parganas – 700056.
3. Mamta Ajitsaria, 1<sup>st</sup> Floor, 36A, B.T. Road, Belgharia, North Twenty-Four Parganas – 700056.

....Respondents

Counsel for Appellants

Mr. Avishek Guha with Mr. Srijit Bose

Counsel for Respondents

Mr. Nemani Srinivas with Mr. Ajit Kesari and Mr. Tirthankar Das

With

Misc. Appeal No. 20 of 2026  
(Arising out of S.A. No. 142 of 2025 in DRT-III, Kolkata)



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Counsel for Respondents

Mr. Nemani Srinivas with Mr. Ajit Kesari and Mr. Tirthankar Das

**JUDGMENT**

:

**1<sup>st</sup> July, 2026**

**THE APPELLATE TRIBUNAL :**

Since both these Appeals are connected, hence are being disposed of by a common judgment.

2. Misc. Appeal No. 18 of 2026 is preferred against an order dated 04.07.2025 passed by Learned DRT-3 Kolkata in S.A. No. 142 of 2025 (***Agarwal Pipe & Fittings & Ors Vs. A.O. of AU Small Finance Bank Limited & Ors***) whereby Learned DRT directed the Appellant Bank to file the



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opposition of S.A. and I.A. No. 2709 of 2025 with a further direction to the Bank not to take coercive action in respect of the secured property without leave of the Tribunal.

**3.** Appeal No. 20 of 2026 is preferred against an order dated 11.11.2025 passed by Learned DRT-3 Kolkata in S.A. No. 142 of 2025 whereby I.A. No. 3673 of 2025 filed by the Bank for modification of the order dated 04.07.2025 was dismissed.

**4.** S.A. No. 142 of 2025 is filed by the Respondents herein challenging the actions undertaken by the Bank under the Securitisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'Act') and also for setting aside or quashing the Demand Notice under Section 13(2) of the SARFAESI Act, 2002 dated 14.10.2024. I.A. No. 2709 of 2025 was filed for setting aside the order dated 16.05.2025 passed by Learned Additional Chief Judicial Magistrate, Barrackpore under Section 14 of the SARFAESI Act, 2002 with consequential reliefs.

**5.** It is admitted that Securitisation Applicants availed the financial facilities from the Bank. Necessary documents were executed. Initially, the loan was sanctioned by the ICICI Bank. Subsequently, the Appellant Bank took over the loan facility and sanctioned the financial facilities to the Appellant. Without any reason Appellant was prevented from operating the loan account from 06.02.2023 to 27.03.2024.



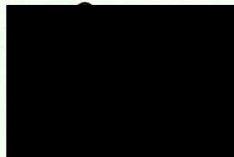
**6.** Notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 14.10.2024 as the loan account was classified as NPA on 01.10.2024 wherein it is stated that descriptions of the secured assets were erroneous and incomplete. An objection under Section 13(3-A) of the Act was submitted on 11.12.2024 wherein the genuineness and veracity of the allegations regarding classification of the loan account as NPA was challenged. Reply to the representation under Section 13(3-A) of the Act was issued by the Bank on 21.12.2024 rejecting the same. Possession Notice was issued on 31.12.2024 communicating that the symbolic possession was taken on 31.12.2024. Description of the property was erroneous and incomplete.

**7.** An order under Section 14 of the Act was obtained by the Bank from ACJM, Barrackpore on 16.05.2025 which was obtained in suppression of the material facts. In the nine point affidavit it was stated that no case under SARFAESI Act, 2002 is pending which was a wrong submission as S.A. No. 142 of 2025 was pending on the date of the submission of the affidavit. Contentions regarding service of Possession Notice dated 31.12.2024 were also wrongly made. No notice was ever served upon the Applicants. It was sent through a letter dated 01.01.2025 which was served upon the Applicant on 04.01.2025. The secured asset is in possession of the tenants but the same fact was also not narrated in the affidavit. Order was passed by the Ld. ACJM, Barrackpore mechanically without considering the nine points affidavit.



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- 8.** Learned Counsel for the Respondent Bank sought for time to file the opposition before the DRT. All the oral submissions were made to the effect that order passed by Learned ACJM Barrackpore is in accordance with law. No tenant is there in the secured assets. The description of the secured assets is correctly made. All the requirements under Section 14 of the Act are complied by the Bank.
- 9.** After hearing the Learned Counsel for the parties, Learned DRT recorded a prima facie finding that the order passed by Learned ACJM, Barrackpore is not in accordance with the provisions of Section 14 of the Act. Accordingly, Learned DRT allowed time to the Respondent Bank to file the opposition to the I.A. and fixed the matter for hearing of I.A. In the meantime, Bank was directed not to take any coercive action against the Applicant without leave of the Tribunal.
- 10.** Application I.A. No. 3673 of 2025 was filed by the Bank for modification of the order dated 04.07.2025 on the ground that during the course of hearing, certain arguments were made by the Learned Counsel for the Bank which are not incorporated in the impugned order dated 04.07.2025. Accordingly, modification of the order was sought by the Bank. Opposition to the same is filed by the S.A. Applicant.
- 11.** Modification Application was filed on the ground that certain documents regarding 'No Objection Certificate' submitted by the S.A. Applicant to the Bank was produced. Apart from it, same declaration of the borrower is also produced by the Bank which were duly relied upon during



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the course of hearing but the same did not find place in the order.

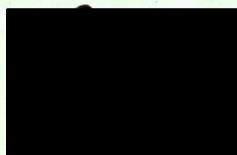
**12.** S.A. Applicant opposed the prayer on the ground that the I.A. No. 2709 of 2025 is still pending wherein the opposition is yet to be filed by the Bank. No ground for modification of the order is made out. All the documents relied upon by the Bank were duly considered by the Learned DRT at the time of passing of the order.

**13.** Learned DRT recorded a finding that the objections have yet to be filed by the Bank. Further, the documents as alleged by the Bank were not produced at the time of hearing. Further, order dated 04.07.2025 is not a final order. Rather, I.A. No. 2709 of 2025 is yet to be finally disposed of. There is no provision under the Act for modifying or recalling the order. Application is for review of the order wherein the grounds as required for review are not made out. Accordingly, Learned DRT dismissed the I.A. No. 3673 of 2025.

**14.** Feeling aggrieved by the impugned order dated 04.07.2025 and 11.11.2025, Appellant preferred two Appeals.

**15.** I have heard the Learned Counsel for the parties and perused the records.

**16.** Learned Counsel for the Appellant Bank strongly submits that the documents were produced relating to the declaration by the borrower to the effect that no other person is in the possession of the secured assets. Further, other documents were also produced during the course of



hearing before the Learned DRT but the same was not considered. Learned Counsel for the Appellant in detail made submissions regarding validity of the order passed under Section 14 of the Act, 2002 by the Learned ACJM, Barrackpore. Learned Counsel further placed reliance upon catena of judgments regarding validity of an order passed under Section 14 of the Act. Further, the grounds upon which an order under Section 14 of the Act can be challenged are also argued by the Appellant's Counsel. Learned Counsel for the Appellant would further submit that the modification of the order was sought for on the ground that material which was placed before the Learned DRT was not considered while passing the order dated 04.07.2025. Hence, order requires modification of the same.

**17.** Per contra, Learned Counsel for the Respondents would submit that two parallel proceedings cannot be permitted to continue by the Appellants. Learned DRT called for the Bank to file the opposition to the I.A. and passed an interim order till disposal of I.A. No. 2709 of 2025. All the contentions which are being raised by the Appellants in this Appeal are to be considered and adjudicated by the DRT in the pending I.A. Appeal itself against the order dated 04.07.2025 is not maintainable.

**18.** Learned Counsel for the Respondent would further submit that the order dated 11.11.2025 passed on the modification Application also does not warrant any interference. Application was filed for review of the order on the ground which are not sustainable in the eye of law.



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**19.** I.A. No. 2709 of 2025 was filed by the Respondents herein for interim protection challenging the order passed by Learned ACJM, Barrackpore under Section 14 of the Act. Learned DRT gave an opportunity to the Appellant Bank to file the reply. Learned DRT, when the matter was put up before the Tribunal, found a prima facie case in favour of the SARFAESI Applicant and restrained the Bank from taking any coercive action without the leave of the Tribunal. I.A. is yet to be adjudicated by the Learned DRT on the issues regarding validity of the order of Learned ACJM Barrackpore. Bank would be at liberty to raise all the pleas before the Learned DRT for support of their case by filing the Affidavit along with the documents but any finding on those issues in this Appeal would prejudice or rather curtail the rights of parties for adjudication of I.A. No. 2709 of 2025. Accordingly, since I.A. is still pending for adjudication, Appeal filed by the Appellants itself is not maintainable.

**20.** As far as the Appeal against the order dated 11.11.2025 is concerned, I.A. No. 2709 of 2025 is yet to be finally disposed of. Order dated 04.07.2025 was passed on the basis of prima facie finding by the DRT. But all the issues which are important and would have to be raised by the Bank are still open for consideration of the DRT.

**21.** However, as far as the issue of maintainability of I.A. No. 3673 of 2025 is concerned, this Application was filed in the form of a Review Petition. Learned Counsel for the Bank would submit that the Application is filed under Section 22(2) (e) of the Recovery of Debts and Bankruptcy Act,



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1993 which relates to the provisions regarding review of the orders. Review petition can be filed before the DRT under Rule 5-A of the DRT Procedure Rules, 1993 wherein the Rule 5-A provides that the Review Petition can be made on account of some mistake or error apparent on the face of the records.

**22.** Rule 5-A of DRT Procedure Rules, 1993 reads as under:

**[5-A. Review.** – (1) *Any party considering itself aggrieved by an order made by the Tribunal on account of some mistake of error apparent on the face of the record desires to obtain a review of the order made against him, may apply for a review of the order to the Tribunal which had made the order.*

(2) *No application for review shall be made after the expiry of a period of [thirty days] from the date of the order and no such application shall be entertained unless it is accompanied by an affidavit verifying the application.*

(3) *Where it appears to the Tribunal that there is no sufficient ground for a review, it shall reject the application [but where the Tribunal is of opinion that the application] for review shall be granted, it shall grant the same:*

*Provided that no such application shall be granted without previous notice to the opposite party to enable him to appear and to be heard in support of the order, a review of which is applied for.]*

**23.** Section 114 of the Code of Civil Procedure, 1908 reads as under:

**Review** – *Subject as aforesaid, any person considering himself aggrieved-*

(a) *by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred.*

(b) *by a decree or order from which no appeal is allowed by this Code, or*

(c) *by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.*



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24. Order XLVII of the Code of Civil Procedure, 1908 reads as under:

1. **Application for review of judgment.-** (1) Any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment of the Court which passed decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

[Explanation.- The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment.]

25. Admittedly, the Code of Civil Procedure, 1908 is not fully applicable in the proceedings under section 17 of the SARFAESI Act. Further, when there are specific provisions for review in the DRT (Procedure) Rules, 1993, then the provisions of Code of Civil Procedure, 1908 on the question of review would not apply.

26. In a recent judgment of the Hon'ble Apex Court reported in **Sanjay Kumar Agarwal Vs. State Tax officer (1) 2023 SCC OnLine SC 1406** decided on 31<sup>st</sup> October 2023, Hon'ble Apex Court laid down the law on the issue of review. In the said case, reliance was placed on **Northern**



**India Caterers (India) Ltd. versus Lt. Governor of Delhi (1980) 2 SCC 167** where it was held that-

"9. In the words of Hon'ble Krishna Iyer J., (as his Lordship this was "a plea of review unless the first judicial view is manifestly distorted, is like asking for the Moon. A forensic defeat cannot be avenged by an invitation to have a second look hopeful of discovery of flaws and referral of result..... A review in the Counsel's mentation cannot repair the verdict once given. So, the law laid down must rest in peace."

27. Reliance was also placed upon **Sajjan Singh Vs. State of Rajasthan AIR 1965 SC 845** wherein it was held that-

"It is also well settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so."

28. Reliance was also placed upon **Parsion Devi Vs. Sumitri Devi (1997) 8 SCC 715** wherein it was held that

-  
"9. Under Order 47 Rule 1 CPC a judgment may be open to review *inter alia* if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be 'reheard and corrected'. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be "an appeal in disguise."

29. A three Judges bench of the Hon'ble Apex Court in **Shanti Conductors Private Limited Vs Assam State Electricity Board (2020) 2 SCC 677** held that-

"the scope of review is limited and under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided."



**30.** Reliance was placed on ***R.P. (C) Nos. 1273-1274 of 2021 in Civil Appeal Nos. 8345-8346 of 2018 (Arun Dev Upadhyaya v. Integrated Sales Service Limited)(2023) 8 SCC 11***, wherein the Hon'ble Apex Court reiterated the law and held that:-

*"15. From the above, it is evident that a power to review cannot be exercised as an appellate power and has to be strictly confined to the scope and ambit of Order XLVII Rule 1 CPC. An error on the face of record must be such an error which mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions."*

*16. It is very pertinent to note that recently the Constitution Bench in Beghar Foundation v. Justice K.S. Puttaswamy (Retired), held that even the change in law or subsequent decision/ judgment of co-ordinate Bench or larger Bench by itself cannot be regarded as a ground for review.*

**31.** In Sanjay Kumar Agarwal (supra) it was held that-

*The gist of the afore-stated decisions is that:-*

*(i) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.*

*(ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.*

*(iii) An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.*

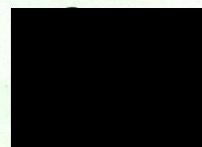
*(iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected."*

*(v) A Review Petition has a limited purpose and cannot be allowed to be 'an appeal in disguise.'*

*(vi) Under the guise of review, the petitioner cannot be permitted to reargue and reargue the questions which have already been addressed and decided.*

*(vii) An error on the face of record must be such an error which, ere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.*


*(viii) Even the change in law or subsequent decision/ judgment or a co-ordinate or larger Bench by itself cannot be regarded as a ground for review."*



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**32.** A bare perusal of Rule (5-A) of Debts Recovery Tribunal (Procedure) Rules, 1993 demonstrates that a review is only maintainable on the ground of some mistake or error apparent on the face of the record. These are the only two grounds wherein a review application can be filed under the DRT (Procedure) Rules, 1993. Although scope of review under the provisions of Order XLVII of Code of Civil Procedure, 1908 is larger in comparison to the provisions of Rule (5-A) of Debts Recovery Tribunal (Procedure) Rules, 1993. Under CPC, Review can be filed on a ground of (i) discovery of new and important matters on evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made or (ii) order on account of some mistake or error apparent on the face of the record or (iii) for any other sufficient reasons.

**33.** As far as powers of Review under DRT (Procedure) Rules, 1993 are concerned, it is confined to only some mistake or error on the face of record. Hence, it can safely be inferred that a scope of review under CPC is much larger than the scope of review under DRT (Procedure) Rules, 1993. Accordingly, ground under the DRT (Procedure) Rules, 1993 for review would be some mistake or error on the face of record. As far as mistake is concerned, mistake relates to a mistake which is typographical or arithmetical. In no case, any mistake touching the merits of the case can be taken into consideration at the time of reviewing an earlier order passed by the DRT.



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**34.** As far as error apparent on the face of record is concerned, it was held in the case of Sanjay Kumar Agarwal (supra) wherein reliance was placed upon Arun Dev Upadhyay (supra) that an error which is not self-evident or has to be detected by process of reasoning can hardly be said to be an error apparent on the face of record justifying the Court to exercise its power of review. It was further held that under the guise of review, the petitioner cannot be permitted to reagitate and reargue the question as have already been addressed and decided. A review petition has a limited purpose and cannot be allowed to be an appeal in disguise.

**35.** Grounds upon which the I.A. No. 3673 of 2025 is filed is not covered under Rule 5-A of the Rules, 1993. Accordingly, Learned DRT has rightly dismissed the I.A. No. 3673 of 2025.

**36.** On the basis of discussions made above, we are of the view that no interference is called for in the order dated 04.07.2025 and 11.11.2025. Accordingly, both the Appeals are liable to be dismissed.

ORDER

Misc. Appeal No. 18 of 2026 and Misc. Appeal No. 20 of 2026 are dismissed. Order dated 04.07.2025 and 11.11.2025 passed by Learned DRT-3 Kolkata in SA No. 142 of 2025 is confirmed. Learned DRT is directed to decide the I.A. No. 2709 of 2025 expeditiously. It is made clear that any findings or observations made by the Learned DRT in



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the order dated 04.07.2025 or 11.11.2025 shall not affect the merit of the case at the time of disposal of I.A.

Since the S.A. is pending before the DRT-3 Kolkata wherein no Presiding Officer is posted, hence, DRT-2 Kolkata is expected to decide the I.A.s expeditiously preferably within a period of 10 weeks from the date a copy of this order is placed before the Learned DRT-2 Kolkata. Registry is directed to place the judgment before the Learned Presiding Officer of DRT-2 Kolkata to ensure compliance.


Let a copy of this order be placed in the record of Misc. Appeal No. 20 of 2026.

No Order as to costs.

File be consigned to Record Room.

Copy of the Judgment/ Final Order be uploaded in the Tribunal's Website.

Order signed and pronounced by me in the open Court on this the 1<sup>st</sup> day of July, 2026.

  
(Anil Kumar Srivastava,J)  
Chairperson

01.07.2026

Dated 1<sup>st</sup> July, 2026  
/tp