

Case Citation: (2026) ibclaw.in 250 DRAT
BEFORE THE DEBTS RECOVERY
APPELLATE TRIBUNAL, AT: MUMBAI

Present: Justice Vivek Bharti Sharma, Chairperson
Misc. Appeal No. 223/2024

Between

Amresh Suresh Jaiswal & Anr.	... Appellant/s
V/s.	
Bank of Baroda & Anr.	...Respondent/s

-. Order dated: 16/07/2026: -

Present:

Ms. Sanjana Ghogare, Advocate for the Appellant/ Borrower.

Ms. Aarti Suvarna, Advocate for the Respondent No. 1/ Bank.

Mr. Meghnath Navlani, Advocate for the Respondent No. 2/ Auction Purchaser.

2. This order shall dispose of the Misc. Appeal No. 223/2024, filed by the Appellant/Borrower.

3. In this appeal the Appellant/Borrower has challenged the impugned order dated 09.12.2022 passed by the Ld. Lower Tribunal, DRT-Nagpur whereby the Ld. Lower Tribunal has dismissed the I.A. No. 2212/2024 of the Appellant/Borrower in her Securitization Application No. 435/2022.

4. The Brief facts for disposal of this Appeal are as under:

The Counsel for the Appellant/Borrower filed Securitization Application Annexure No. 1 thereby Annexure No. 1 seeking main

relief to set aside the Demand Notice issued to the Appellant/Borrower under section 13 (2) of the SARFAESI Act dated 28.03.2018 and to declare the action of Executive Magistrate Nagpur to take the physical possession of the secured assets without following the due process, abuse of process of law.

In this Securitization Application, the Appellant filed I.A. No. 2212/2022 for interim relief.

The Ld. Lower Tribunal dismissed this I.A. No. 2212/2022 by the impugned order dated 09.12.2022.

Aggrieved from the same the Appellant/Borrower has preferred this appeal.

5. Heard.

6. The Counsel for the Appellant/Borrower would submit that the sale notice was arbitrary and capricious as the Respondent No. 1/Bank has undervalued the property for sale ; that, this notice under section 18 (2) SARFAESI Act was not pasted on at the property as it is mandatory under section 7 (8) of the Security Interest (Enforcement) Rules ; that, in the notice, there was no bifurcation of the amount specifying that what was the Principal Amount unpaid, what was the Rate of Interest levied thereon and what was the total amount of the interest out of the total amount demanded in that notice.

The Counsel for the Appellant would refer to Page No. 37 Annexure 2 to her Appeal to buttress the argument and would submit that this notice has not specified that who was the officer by name, authorized to issue that notice.

7. Per Contra, The Counsel for the Respondent No. 2/Auction Purchaser would submit that the Appeal has already become infructuous for the reason that by the time this appeal was filed the auction sale had already taken place and sale certificate had also been issued prior to that.

The Counsel for the Respondent No. 2/Auction Purchaser would further submit that the grounds for the appeal which are being argued in this Appellate Tribunal were never taken before the Ld. Lower Tribunal and are being submitted for the first time in the Appellate Tribunal therefore the same cannot be considered.

8. The Counsel for the Respondent No. 2/Auction Purchaser would further submit that the Appellant has not given any Documentary Evidence or any Valuation Report that the property auctioned to the Respondent No-2/Auction Purchaser in this matter was undervalued.

9. The Counsel for the Respondent No.1/Bank would adopt the arguments of Respondent No. 2/Auction Purchaser that even before filing of the Appeal the sale had already taken place and sale certificate had also been issued therefore from very inception the Appeal was misconceived.

10. Considered. Perused the record.

11. It is pertinent to mention that in the course of the arguments the Counsel for the Appellant would fairly concede that the sale under challenge had already taken place and even the sale certificate had also been issued prior to the filing of the present appeal.

The Counsel for the Appellant would further submit at bar that the Appellant has moved the appropriate application before the Ld. DRT-Nagpur for setting aside that sale.

The Counsel for the Appellant would fairly concede that the Appellant has not placed anything on record to buttress the arguments that the property was undervalued in the sale notice.

12. In light of above discussion of facts and law, this Appellate Tribunal is of considered view that the Appellant could not make out the case that Appellant had the good prima facie case and balance of convenience was in its favour at the time when the Interim Application I.A. No. 2212/2022 was heard and decided.

In view of the above, this Appellate Tribunal does not find any illegality in the impugned order assailed by the Appellant.

Accordingly, Misc. Appeal No. 223/2024 is dismissed.

Sd/-
Chairperson

VKC-01