Reportable/Non-Reportable

Reserved on 7th July, 2026
Delivered on 15th July, 2026

IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT KOLKATA

HON'BLE MR. JUSTICE ANIL KUMAR SRIVASTAVA CHAIRPERSON

Appeal No. 68 of 2023
(Arising out of S.A. No. 65 of 2020 in DRT Guwahati)

1. UCO Bank, Rehabari Branch, A.K. Azad Road, Rehabari, District – Kamrup (M), Assam, Guwahati – 781008.

....Appellants

-Versus-

1. Anjan Kumar Dey, Son of Late Ananta Kumar Dey, Saila Bala Mansion, 2nd Floor, Bye Lane No. 1., P.O. – Rehabari, District – Kamrup (M), Guwahati – 781008.
2. Smt. Anuradha Dey, wife of Shri Anjan Kumar Dey, Saila Bala Mansion, 2nd Floor, Bye Lane No. 1., P.O. – Rehabari, District – Kamrup (M), Guwahati – 781008.
3. Shri Sanjib Deka, 1, Gopinath Nagar, A.K. Azad Road. P.O. Guwahati, Pin 781016.

....Respondents

Counsel for Appellants — Mr. Shreyan Bhattacharya, Mr. S.N. Patra Bhatta

Counsel for Respondent No. 1& 2 — Mr. Siddhantha Shaw

Counsel for Respondent No. 3 — Md. Danish Tasum

JUDGMENT : 15th July, 2026

THE APPELLATE TRIBUNAL :

Instant Appeal has arisen against a judgment and order dated 24.01.2023 passed by Learned Debts Recovery

Tribunal Guwahati allowing the S.A. No. 65 of 2020 ***(Sri Anjan Kumar Dey & Anr. Versus UCO Bank).***

2. A Securitisation Application under Section 17 of the SARFAESI Act, 2002 (hereinafter referred to as the 'Act') was filed by the Securitisation Applicant challenging the sale conducted in pursuance of the Sale Notice dated 13.10.2020.

3. As per the pleadings of the parties, Securitisation Applicant, Sri Anjan Kumar Dey is the borrower of the Bank who has taken loan for an amount of Rs.25 lacs. Account became irregular and was classified as NPA on 31.05.2019. Demand Notice under Section 13(2) of the 'Act' was issued on 18.06.2019. Possession Notice was issued on 31.08.2019 which was duly served but not responded. Possession Notice was also published in two newspapers. Valuation of the secured assets were made by the Bank which was Rs. 48 lacs. Sale Notice was issued on 04.11.2019 fixing 11.12.2019 for sale which could not be fructified. Second Sale Notice was issued on 25.01.2020 for auction on 25.02.2020 which also failed. Third auction Notice dated 16.07.2020 for sale on 27.08.2020 was also failed. Thereafter, another Notice is issued on 09.10.2020. The Securitsation Applicant was served with the notice dated 13.10.2020. It was issued by the registered post and delivered to the Securitisation Applicant on 16.10.2020 wherein the date of auction was 27.10.2020. Paper Publication was also annexed with the Notice wherein the reserve price was mentioned as Rs.31,80,000/-. It is stated that the Period fixed for sale was against the provisions of Rule 9(1) of the Security Interest (Enforcement) Rules,2002 (hereinafter referred to as the 'Rules'). Auction was conducted on 27.10.2020. There is violation of Rule 8(6) and 9(1) of the 'Rules'. Property was also sold for under valuation. Accordingly, relief was sought for quashing the e-auction Sale Notice.

4. Bank filed the written objections stating that the auction was conducted in accordance with law. Appellant has full knowledge of the date of sale. Paper publication was made on 10.10.2020. It was a fourth Sale Notice. It is admitted that the Notice was issued on 13.10.2020 and the Appellant himself accepted the same on 15.10.2020. There a compliance of mandatory provisions of Rule 8(6) and 9(1) of the 'Rules'.

5. Learned DRT allowed the S.A. holding that there is no clear 15 days' notice to the Applicant in conducting the sale which was a subsequent sale. Accordingly, allowed the Securitisation Application.

6. Feeling aggrieved by the impugned judgment, Bank preferred the Appeal.

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

8. Learned Counsel for the Appellant would submit that it is a case of fourth sale. Admittedly jural relationship of borrower and the creditor is not in dispute. It is also not in dispute that the repayments were not made in accordance with the schedule and the account was classified as NPA.

Bank proceeded under the SARFAESI Act in accordance with law by classifying the account as NPA. Thereafter, issued notice under Section 13(2) of the 'Act' and also the Possession Notice. Subsequent thereto, e-auction Sale Notices were issued on different dates i.e. on 04.11.2019, 25.01.2020, 16.07.2020 but all the e-auctions could not be materialised and failed. However, when the fresh Notice was issued on 09.10.2020 fixing the e-auction sale on 27.10.2020, it was materialised and e-auction was conducted successfully.

9. Per contra, Learned Counsel for the Respondents would submit that the mandatory provisions of Rule 8(6) and 9(1) of the 'Rules' have not been followed by the Bank. In the case of subsequent sale, 15 days' notice should have been served by the Bank but the same was not done even as per the admissions made by the Bank. Accordingly, auction conducted by the Bank is against law. Findings recorded by the Leaned DRT does not require to be interfered with.

10. It is settled legal proposition that the interest of the auction purchaser should be protected. It was held in a recent judgment of the Hon'ble Supreme Court in ***M.R. Vasumathi versus The Authorized Officer & Ors., 2026 SCC OnLine SC 1103*** in Para No. 36 that-

"While it is trite that the rights of an auction purchaser and the sanctity of a confirmed sale ordinarily merit due protection, such protection is by no means absolute. It must yield where the very process engendering the sale is demonstrated to be legally infirm or to be incongruous with the statutory framework. The object of proceedings under the SARFAESI Act is not the mere culmination of a sale in a mechanical manner, but the lawful realisation of the secured asset through a process that is fair, transparent and strictly compliant

with the prescribed rules. In the present case, the non-adherence to the timeline that the SARFAESI Rules contemplate constitutes a material irregularity going to the root of the matter. The mere factum that the sale stood confirmed cannot, therefore, foreclose judicial scrutiny."

11. It was further held in Para No. 24 that –

"The validity of an auction conducted under the statutory regime is not to be tested on equitable considerations but strictly on the ground whether the mandate of the statute and the rules has been breached or not. The SARFAESI Rules being subordinate legislation, bind the secured creditor as well as the auction purchaser with equal rigour."

12. In the light of the law laid down by the Hon'ble Apex Court, now we have to see as to whether the sale conducted by the secured creditor was in accordance with law or not?

13. It has been held by the Hon'ble Apex Court in ***M. Rajendran and Others versus KPK Oils and Protiens India Pvt. Ltd and Others (2026) 3 SCC 505,*** that a composite notice under Rule 8(6) and 9(1) of the 'Rules' is the sufficient compliance of the provisions of the Rules. But we have to see as to whether the compliance of Rule 8(6) and 9(1) of the 'Rules' have been made by the secured creditor or not?

14. In the present case, it is admitted that the notice was sent on 13.10.2020 and was accepted by the borrower on 15.10.2020. Date of auction was 27.10.2020. Publication was made on 10.10.2020. Although it was a case of subsequent sale, but merely being a subsequent sale, it cannot be accepted that the period of 15 days can be waived by the secured creditor. Rule 8(6) and 9(1) of the 'Rules' reads as under:

"8. Sale of immoveable secured assets-
(6) The authorised officer shall serve to the borrower a notice of thirty days for sale of the immovable secured assets, under sub-rule (5):"
[Provided that if the sale of such secured asset is being effected by either inviting tenders from the public or by holding public auction, the secured creditor shall cause a public notice in the Form given in Appendix IV-A to be published in two leading newspapers including one in vernacular language having wide circulation in the locality.]

*"9. **Time of sale, issue of sale certificate and delivery of possession, etc.***

[(1) No sale of immovable property under these rules, in first instance shall take place before the expiry of thirty days from the date on which the public notice of sale is published in newspapers as referred to in the proviso to sub-rule (6) of rule 8 or notice of sale has been served to the borrower:"

Provided further that if sale of immovable property by any one of the methods specified by sub-rule (5) of rule 8 fails and sale is required to be conducted again, the authorized officer shall serve, affix and publish notice of sale of not less than fifteen days to the borrower, for any subsequent sale.]

15. Bare reading of the provisions would make it clear that there should be a gap of 15 days on the date of auction. In the present case, Paper publication was made on 10.10.2020. Notice was issued on 13.10.2020, received by the borrower on 15.10.2020. Date of auction was 27.10.2020. There is a clear violation of 15 days gap as required under the 'Rules'. Accordingly, we are of the considered view that the Learned DRT has rightly held that there is violation of Rule 8(6) and 9(1) of the 'Rules'. Sale conducted in compliance of the sale notice dated 13.10.2020 was rightly set aside. No interference is called for. Appeal lacks merit and is liable to be dismissed.

16. Auction Purchaser has put in appearance in the Appeal and filed the opposition in the Appeal. Since the sale is set aside for the defaults committed by the Bank, Auction Purchaser is entitled for refund of his bid amount with interest @ 6% per annum from the date of deposit till the date of actual payment.

ORDER

Appeal is dismissed. Judgment and order dated 24.01.2023 passed by Learned DRT Guwahati in S.A. No. 65 of 2020 ***(Sri Anjan Kumar Dey & Anr. Versus UCO Bank)*** is confirmed. However, Appellant Bank is directed to refund the bid amount to the Auction Purchaser with interest @ 6% per annum from the date of deposit till the date of actual payment. However, Bank would be at liberty to proceed afresh to recover its dues in accordance with law.

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 15th day of July, 2026.

(Anil Kumar Srivastava,J)
Chairperson

Dated 15th July 2026
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