

Appeal Dy. No. 455/2021

Union Bank of India Vs. M/s Maksi Agro Cool Chains Pvt. Ltd. & Anr.

Present: Shri S.D. Sahai, counsel for the appellant-Bank,
Shri Alok Rai, counsel for the respondents,

ORDER

Date of Pronouncement : 22.07.2026

The present case was heard and reserved for orders vide order dated 06.05.2026 of this Appellate Tribunal.

Learned counsel for the appellant submitted that the order impugned has been passed by the Tribunal below without jurisdiction, therefore, the same is not sustainable in the eyes of law. It was further contended that on 13.09.2021 the S.A. No. 65 of 2020 was heard along with I.A. Dy. No. 218/2021 & I.A. Dy. No. 281/2021 and during the arguments, it was submitted by the appellant-Bank that the money involved in the present matter is a public money and recovery thereof has become expedient pursuant to the conduct of the respondent/borrowers. It was also submitted that only one bidder had participated in the e-auction to be held on 15.09.2021. It was also offered that in the event substantial amount is paid by the respondents-borrowers, the postponement of auction may be considered, to which learned counsel appearing for the respondents-borrowers submitted that he can ask the borrower to deposit an amount of Rs. 10.00 lacs by 15.09.2021 and thereafter, Rs. 15.00 lacs within one month though the loan amount, which is outstanding for repayment against the respondent/borrowers, is Rs.

16,84,03,597.78 as on 31.05.2019 plus further interest and cost & expenses.

Learned counsel further submitted that the Tribunal below directed for filing of the written synopsis to both the parties by next date i.e. 04.10.2021 and fixed the next date on 04.10.2021 for clarification/order. It was further contended that the case was listed before the Tribunal below on 04.10.2021, but due to non-availability of the court, the Registrar of the Tribunal below adjourned the case for 09.10.2021. It was also contended that on 09.10.2021 it was holiday due to second Saturday, the DRT was closed, therefore, the case was listed on next working day i.e. 11.10.2021 (Monday) and on 11.10.2021, the Registrar of the Tribunal below fixed the matter on 26.10.2021 for the same purpose. It was further contended that on 26.10.2021, the Registrar, DRT, Patna has fixed the matter on 15.11.2021 for the same purpose.

Learned counsel further submitted that the Bank got the information from the office of the Tribunal below that in the S.A., some order has been passed on 29.09.2021 by the Tribunal below, which is impugned in the present case.

It was further contended that the impugned order has been passed by the Tribunal below on 29.09.2021, but the case was never listed for hearing or for orders or for any purpose on 29.09.2021 in the cause list of the DRT, Ranchi or in the cause list of the DRT, Patna, meaning thereby the order impugned dated 29.09.2021 is illegal and bad in law and has been passed by the Tribunal below allegedly having Additional Charge of DRT, Patna on

29.09.2021 and it is also pertinent to point out that the judgment/order in the matter dated 29.09.2021 has been passed illegally in the present case. It was further contended that on 21.09.2021, the S.A. was posted for further arguments at DRT, Patna, when the Tribunal below was present and holding court at Patna. It is further submitted that on 21.09.2021 the Tribunal below heard the case at length and posted the matter for clarification/order on 04.10.2021 with a direction to both the parties to submit their written synopsis. It is further submitted that the appellants-bank had filed its written synopsis through the e-mail on 01.10.2021 on the website of the Tribunal below. It was therefore prayed that the order impugned may be set aside and the appeal may be allowed.

Learned counsel for the respondent-borrower submitted that on 21.09.2021, the matter was heard by the Tribunal below and directed to file written synopsis by both the parties by the next date and it was further directed to put the matter on 04.10.2021 for clarification/order.

It was further contended that the judgment was delivered on 29.09.2021, on which it is mentioned that the date of judgment reserved as 21.09.2021. It was further contended that it is not known to the respondent-borrower, when the judgment was uploaded on the website and the date of pronouncement of impugned order will be date when the order was uploaded on the website of the DRT. It was, therefore, prayed that the appeal filed by the appellant-Bank may be dismissed with heavy costs.

Considered the arguments and perused the records.

The question involved in the present case is, as to whether the order impugned passed by the Tribunal below is without jurisdiction or not?

In order to decide the aforesaid question, the order sheets of the Tribunal below, which are placed from Page No. 327 to 361 of the Paper book are relevant. The admitted fact is that the Additional Charge of DRT, Patna was with the Presiding Officer, DRT, Ranchi. The present S.A. was taken up by the DRT, Patna through V.C. on 07.09.2021 and the DRT, Ranchi vide order dated 07.09.2021 directed the registry of DRT, Patna for sending the case record to DRT, Ranchi before the next date i.e. 13.09.2021, which was fixed for physical hearing. On 13.09.2021, the matter was heard in part and the case was listed for further arguments on 21.09.2021. The order sheet dated 21.09.2021, copy of which is at page No. 331 of the paper book, shows that both the parties were directed to file written synopsis by the next date and the date was fixed on 04.10.2021 for clarification/order and the said order is signed by the Presiding Officer himself. On 04.10.2021, a notice was issued by the Registrar of DRT, Patna, copy of which is placed at page No. 332 of the paper book. As per the said notice, the cases listed on 04.10.2021 before the virtual court of the Presiding Officer were adjourned to 09.10.2021 and the present S.A. was at the bottom of the column of case number. From it, is clear that the case file was available at DRT, Patna and not DRT, Ranchi, which is also evident from the order sheet dated 09.10.2021 placed at page No. 333 of the paper book. In the said order

sheet, it is mentioned "*place the matter before the Hon'ble Presiding Officer on 26.10.2021 for the same purpose day was fixed*" and the said order sheet is signed by the Registrar, DRT, Patna. On 26.10.2021, the case was again adjourned by the Registrar for 15.11.2021 and as such the case was continuously being listed, but the present S.A. was disposed off vide order impugned on 29.09.2021 by the Presiding Officer, DRT, Ranchi, holding additional charge of DRT, Patna, which is not sustainable in the eye of law, because from these documents, it is clear that the present case was being listed in DRT, Patna under the signature of Registrar and Assistant Registrar. The first page of impugned order contains "date of hearing and judgment reserved-21.09.2021", date of passing judgment-29.09.2021, which is contrary to the order sheet dated 21.09.2021 passed by the Presiding Officer himself, because on 21.09.2021, it was only directed by the Presiding Officer that written synopsis may be filed by both the parties by the next date and put up on 04.10.2021 for clarification/order, but on that date, the said order sheet does not show that any hearing was done by any of the parties, whereas the said date was fixed for further arguments. In this regard, Rule 14(2) of the Debts Recovery Tribunal (Procedures) Rule, 1993 says "the order shall be pronounced in open court".

From the above, it is clear that on 29.09.2021, neither the present case was listed before the DRT, Patna nor before the DRT, Ranchi. Thus the order impugned passed by the Tribunal below is illegal and without jurisdiction because the said order was passed by the Tribunal below out of the

court, whereas as per the aforesaid Rules, the order has to be pronounced in open court, which has not been done by the Tribunal below in the present case, therefore, the order impugned is liable to be set aside.

In view of the discussions as recorded above, the order impugned is set-aside and the matter is remanded back to the Tribunal below for deciding it afresh in accordance with law after affording proper opportunity of hearing to the parties concerned. The appeal is accordingly disposed off.

Justice R.D. Khare
Chairperson

VN Giri,PS