DEBTS RECOVERY APPELLATE TRIBUNAL, DELHI

Misc. Appeal No.245/2026
Arising out of SA No.253/2026 (DRT-II, Chandigarh)

Item No. 11

Renu Bala & another
V.
Authorised Officer, Punjab National Bank & others

28.07.2026 Hon'ble Dr. Justice Sudhir Kumar Jain

Present: Sh. Munish Gupta, Advocate for appellants through VC

Sh. V.K. Sachdeva, Advocate for respondent no.3 through VC

This matter is taken up through Hybrid hearing.

I.A. No.1090/2026

1. The instant application is filed for waiver of pre-deposit. The appellants claimed that they are neither borrowers/ guarantors/mortgagors and claimed to be the tenants in respect of secured assets. In these circumstances, the appellants prayed for waiver of pre-deposit. It is manifested from the record that the appellants are neither borrowers, nor mortgagor, nor guarantors and as such the appellants are not liable to make pre-deposit. Accordingly, the application is allowed.

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2. The appellant filed S.A. bearing No.253/2026 titled as **Renu Bala and another V Punjab National Bank** which is stated to be pending before DRT-II, Chandigarh. The relevant facts appearing from the record are that the respondent no.4 has obtained financial assistance from the respondent no.2 and created equitable mortgage of two shops stated to have been purchased vide registered sale deed dated 08.10.2012. The respondent no.4 committed default and as a result of which secured assets were sold in public auction to the respondent no.3 and sale certificate dated 25.11.2010 was also issued in favour of respondent no.3. The appellants claimed to be in possession of the secured assets being the tenant and doing their business in the secured assets for last several years.

2.1 The appellants claimed that the appellant no.1 filed a Civil Suit bearing No.204/2017 titled as **Renu Bala V Lalit Kumar and others** which was decided vide judgment/decree dated 28.07.2012 passed by Civil Judge (Senior Division), Narnaul wherein it was held that the appellant no.1 could not be dispossessed without due process of law. The appellants also stated that the appellant no.2 also filed a Civil Suit No.156/2016 titled as **Vinod Kumar V. Ram Prasad** against the respondent no.3/auction purchaser wherein the respondent no.3/auction purchaser himself made a statement before the Court that he would not interfere with the possession of the appellant no.2 except without due process of law. The Suit bearing No.156/2016 on the statement of the respondent no.3 was allowed to be dismissed as withdrawn. The appellants categorically stated that the respondents no 1 and 2 despite orders from Civil Court as detailed herein above initiated the proceedings under the SARFAESI Act.

3. The appellants filed S.A. bearing No.253/2026 titled as **Renu Bala and another V Punjab National Bank** which is stated to be pending before DRT-II, Chandigarh. The appellants made a prayer for interim protection of their possession in the secured assets. DRT-II, Chandigarh vide impugned order dated 04.07.2026 has declined the prayer of the appellant for grant of interim protection. The relevant portion of the impugned order dated 04.07.2026 is reproduced as under:

> **14. The entire foundation of the applicants case rests upon their assertion that they are tenants in possession of the secured asset. However, a careful examination of the Securitization Application reveals that the applicants have not disclosed the precise dated of commencement of tenancy, the terms and conditions thereof, the agreed rate of rent or any other material particulars. More importantly, no tenancy deed, lease agreement, rent receipts or any contemporaneous documentary evidence has been produced before this Tribunal to prima facie establish the existence of a lawful tenancy.**
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> **15. It is a settled principle that the initial burden to establish tenancy lies upon the person who asserts such status. Mere possession of the property or a bald plea of oral tenancy cannot by itself confer legal protection against statutory measures initiated by a secured creditor under the SARFAESI Act. The Hon'ble Supreme Court has consistently held that only a valid and legally recognized tenancy is**

entitled to protection while considering measures taken under the SARFAESI Act.

16. Further, the applicants themselves claim that they have been tenants for several years. If such tenancy was for a period exceeding one year, the provisions of Section 107 of the Transfer of Property Act, 1882 become applicable, which require such lease to be created through a registered instrument. In the absence of any registered lease deed or any legally admissible material evidencing the tenancy, this Tribunal is unable to record even a prima facie satisfaction regarding the existence of a lawful tenancy.

17. The applicants have heavily relied upon the observations made by the Civil Court that they shall not be dispossessed except through due process of law. There can be no dispute with the proposition that no person should be evicted otherwise than in accordance with law. However, the expression "due process of law" cannot be interpreted to mean that the statutory mechanism provided under the SARFAESI Act is excluded from its ambit. Whether the action initiated under the SARFAESI Act itself constitutes due process of law is an issue which has to be examined in accordance with the statutory framework and the facts of the case. Therefore, merely because the Civil Court observed that the applicants should not be dispossessed except in accordance with law does not automatically entitle them to an injunction against proceedings undertaken under the SARFAESI Act.

18. This Tribunal is also conscious of the legislative object of the SARFAESI Act. If interim protection is granted solely on the basis of an unsubstantial plea of oral tenancy without production of legally admissible evidence, the statutory rights of the secured creditor would stand seriously prejudiced. Such an approach would also enable defaulting borrowers to indirectly frustrate recovery proceedings by projecting unauthorized occupants as tenants without establishing any lawful tenancy. Equity cannot be invoked to defeat statutory rights.

19. The respondent bank has specifically pleaded that no reference to any tenancy finds mention in the valuation report, search report or mortgage documents executed at the time of creation of the security interest and that no legally admissible evidence has been produced by the applicants to substantiate their claim. At this stage, these contentions remain unrebutted by any convincing documentary material.

20. Accordingly, this Tribunal is of the considered opinion that the applicants have failed to establish a prima facie case. Consequently, the balance of convenience also lies in favour of the respondent bank, which is exercising its statutory rights under the SARFAESI Act. The applicants have also failed to demonstrate that they would suffer such irreparable injury which cannot be compensated in law, whereas grant

of interim protection at this stage would seriously prejudice the statutory recovery proceedings.

21. In view of the foregoing discussion, this Tribunal finds no ground to grant interim relief in favour of the applicants. Accordingly, the prayer for interim protection is dismissed.

22. List the matter on 19.08.2026 for hearing on S.A.

4. Sh. Munish Gupta, Advocate for the appellants argued that the appellants have filed Civil Suits No.204/2007 and 156/2016 wherein the appellants were declared as tenant. Sh. Gupta, Advocate has referred para-14 of the judgement dated 28.07.2012 passed in Civil Suit No.204/2007 by the Court of Civil Judge (Senior Division), Narnaul wherein it was observed that the appellant no.1 was succeeded to establish her possession over the shop in question i.e. the subject property and the defendants in Civil Suit No.204/2007 were restrained from dispossessing the appellant no.1 from the shop in question i.e. the subject property except in view of the course of law. Sh. Munish Gupta, Advocate also referred the proceedings dated 11.11.2016 conducted in Civil Suit No.156/2016 wherein the respondent no.3/the auction purchaser stated that he shall not dispossess the appellant no.2 from the secured assets without due process of law. In these circumstances, Sh. Gupta, Advocate for the appellants argued that the impugned order dated 04.07.2026 be set aside. Sh. Gupta, also referred the judgement in **Vishal N. Kalsaria V. Bank of India, (2016) 3 SCC 762** in support of his argument of except without due process of law.

5. Sh. V.K. Sachdeva, Advocate who appeared on advance notice on behalf of the respondent no.3/ the auction purchaser stated that the respondent no.4 who was the borrower, filed S.A. bearing No.171/2010 against the respondents no.1 and 2 which was ordered to be dismissed vide order dated 08.04.2015 passed by DRT-I, Chandigarh. Thereafter, borrower/respondent no.4 filed an Appeal bearing No.171/2015 titled as **Lalit Kumar V. Authorised Officer, Punjab National Bank & others** before this Tribunal which was also ordered to be dismissed vide order dated 15.09.2015. The respondent no.4/borrower also filed a Writ Petition bearing CWP No.19186/2016 before the Punjab and Haryana High Court which was decided vide order dated 20.09.2016 and order passed by this Tribunal was upheld. The respondent no.4/the borrower also filed SLP (Civil) No.3080/2017 before the Supreme Court of India which was also ordered to be dismissed vide order dated 20.09.2024.

6. Sh. V.K. Sachdeva, Advocate also stated that the District Magistrate on the proceedings initiated by respondents no 1 and 2 issued the possession notice on 17.04.2026. The appellants being aggrieved filed Writ Petition bearing No. CWP 13972/2026 before the Punjab & Haryana High Court and DRT-II, Chandigarh vide order dated 25.05.2026 was directed to decide the interim relief preferred by the appellants expeditiously and the possession of the appellants was ordered to be protected till the decision of the prayer for interim relief is made by the appellants. Sh. V.K. Sachdeva, Advocate also argued that the appellants were aware of the proceedings before the DRT.

7. DRT-II, Chandigarh in the impugned order dated 04.07.2026 observed that the appellants cannot establish their tenancy in respect of the subject property by placing the appropriate material. The Tribunal has considered all the issues raised on behalf of the appellants in detail. The Tribunal also observed that mere possession of the property or a bald plea of oral tenancy is not sufficient to give legal protection against the statutory measures initiated by secured creditor under the SARFAESI Act. It is reflecting that the respondents no 1 and 2 have initiated the proceedings in respect of secured assets under the SARFAESI Act in accordance with law. The Civil Courts also observed that the appellants cannot be dispossessed without due process of law which was followed by respondents no 1 & 2. The appellants could not point out any illegality or irregularity in the proceedings initiated by the respondents no 1 and 2. The DRT-II, Chandigarh in impugned order categorically observed that the appellants could not produce any documentary evidence to establish their tenancy in respect of secured assets. DRT-II, Chandigarh has considered all the relevant legal and factual issues including the orders passed by Civil Courts as detailed herein above while passing the impugned order. The appellants could not make out case for grant of interim protection against the dispossession from the secured assets on the basis of their alleged tenancy. The arguments advanced by the counsel for the appellants are mis-conceived and do not provide much help to the appellants.

8. This Tribunal is of the opinion that no ground is made out by the appellants to interfere in the impugned order dated 04.07.2026. There is no illegality or infirmity in the impugned order which warrants any interference by this Tribunal. Accordingly, appeal is dismissed being devoid of merit.

Sd/-

(Dr. Justice Sudhir Kumar Jain)
Chairperson

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