

Judgment reserved on: 29th July, 2026

Judgment delivered on: 4th August, 2026

Misc. Appeal No. 13 of 2025-DRAT-Kolkata

IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT KOLKATA

Misc. Appeal No. 13 of 2025

(Arising out of I.A. 2071 of 2024 in S.A. 146 of 2024 in DRT-I, Kolkata)

HON'BLE MR. JUSTICE ANIL KUMAR SRIVASTAVA
CHAIRPERSON

1. Punjab National Bank, 23A, Rai M.C. Lahiri Bahadur Street, Serampore, Hooghly – 712 201;
2. Authorised Officer, Punjab National Bank, 23A, Rai M.C. Lahiri Bahadur Street, Serampore, Hooghly – 712 201.

... Appellants

-Versus-

Manimala Dey, Wife of Haradhan Dey, Village – Dighladanga, Deypara, P.O. Jagatnagar, P.S. Singur, District – Hooghly, P.I.N. – 712 407.

... Respondent

Counsel for Appellants

... Ms. Mekhala Kanji

Counsel for Respondents

... None

JUDGMENT : 4th August, 2026

THE APPELLATE TRIBUNAL:

1. Instant appeal has been preferred against order dated 25.11.2024 passed by the Learned DRT-I, Kolkata in S.A. 146 of 2024 (Manimala Dey -vs- Punjab National Bank), whereby Learned DRT held that the S.A. is maintainable.

2. Heard the Learned Counsel for Appellant. Despite notice, none appeared for the Respondents. Although vakalatnama and opposition was filed by the Respondents, they did not appear on 10.5.2026 or 10.7.2026 hence hearing was conducted on 29.7.2026.

3. Learned Counsel for Appellant would submit that challenge in the S.A. was made to the Sale Notice dated 6.4.2024 along with Notice, under Section 13 (2) of the SARFAESI Act, 2002 (hereinafter referred to as the 'Act') dated 24.8.2023. Limitation was sought for from the date of Sale Notice dated 6.4.2024 as the S.A. was filed on 1.5.2024.

Misc. Appeal No. 13 of 2025-DRAT-Kolkata

4. Learned Counsel for Appellant would submit that the e-Auction Sale became infructuous for want of bidder. S.A. became time barred as the other measures challenged in the S.A. are not challenged within forty-five days.

5. Perusal of the S.A. would reveal that the main relief sought for by the Borrower was to quash the e-Auction Sale Notice dated 6.4.2024. Subsequently, there is also a relief for challenging the Notice under Section 13 (2) of the Act dated 24.8.2023. In the Limitation Clause, limitation is sought from the Sale Notice dated 6.4.2024. It is mentioned that:

"Nevertheless, since the Sale Notice dated 6.4.2024 the application is being filed well within the period of limitation, as envisaged under Section 17 (1) of the SARFAESI Act, i.e., within 45 days from the steps taken seems to be under Section 13 (4) of the SARFAESI Act."

6. In **Authorised Officer, Indian Overseas Bank -vs- Ashok Saw Mills [(2009) 8 SCC 366]**. In paragraph 35 it was held that:

"35. In order to prevent misuse of such wide powers and to prevent prejudice being caused to a borrower on account of an error on the part of the banks or financial institutions, certain checks and balances have been introduced in Section 17 which allow any person, including the borrower, aggrieved by any of the measures referred to in sub-section (4) of Section 13 taken by the secured creditor, to make an application to the DRT having jurisdiction in the matter within 45 days from the date of such measures having taken for the reliefs indicated in sub-section (3) thereof."

7. Hon'ble Calcutta High Court in the case of **Akshat Commercial Private Limited -vs- Kalpana Chakraborty (AIR 2010 Cal 138)** held that:

"We have already pointed out that the by virtue of the provisions contained in Sections 17(7) of the SARFAESI Act and Section 24 of the Recovery of the Debts Due to Banks and Financial Institutions Act, the provisions of the Limitation Act would "as far as may be" applicable but not all the provisions of the said Act. The legislature having consciously applied the provisions of the Limitation Act "as far as may be" by conjoint effect of Sections 17(7) and 24 of the two Special Acts, there is no scope of further application of Section 29(2) of the Limitation Act to the proceedings before the Tribunal so as to apply Sections 4 to 29 thereof over again."

Misc. Appeal No. 13 of 2025-DRAT-Kolkata

8. S.A. was filed on 01.5.2024. Borrower was seeking limitation for quashing the e-Auction dated 6.4.2024. Challenge to the Notice, under Section 13 (2) of the Act, was dated 24.8.2023. Section 17 of the Act provides that the petition, under Section 17 of the Act, can be filed within 45 days from the date any measure, under Section 13 (4) of the Act, is undertaken by the Secured Creditor.

9. Accordingly, since the main relief has become infructuous, S.A. is not maintainable and is liable to be dismissed. Learned DRT has misled itself in holding that the S.A. is maintainable. Impugned order suffers from material illegality and is liable to be set aside.

O R D E R

Appeal is allowed. Impugned order dated 25.11.2024 is hereby set aside. Consequently, S.A. 146 of 2024 (Manimala Dey -vs- Punjab National Bank) pending before DRT-I, Kolkata stands dismissed.

File be consigned to Record room.

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

Order signed, dated and pronounced in open Court.

(Anil Kumar Srivastava,J)
Chairperson

Dated: 4th August, 2026
ac