Reportable/Non-Reportable

Reserved on 3rd August, 2026
Delivered on 6th August, 2026

IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT KOLKATA

HON'BLE MR. JUSTICE ANIL KUMAR SRIVASTAVA CHAIRPERSON

Appeal No. 47 of 2022
(Arising out of I.A. No. 56 of 2019 in T.S.A. No. 689 of 2018 in DRT-Siliguri)

1. B.U. Industries NH – 31A, Gangtok, District – East Sikkim, Pincode – 737101.

2. Mahabir Prasad Agarwal, Central Hotel Complex, National Highway, Gangtok, Sikkim, Pin – 737101.

....Appellants

-Versus-

1. Central Bank of India, Hill Card Road Branch, Siliguri, District – Darjeeling, Pincode – 734001.

2. The Assistant General Manager and Authorised Officer, Central Bank of India, Hill Card Road Branch, Siliguri, District – Darjeeling, Pincode – 734001.

….Respondents

Counsel for Appellant	Mr. Ashok Kumar Dhandhania, Learned Senior Advocate, Mr. Surya Prasad Chatterjee, Learned Counsel
Counsel for Respondent	Mr. Gautam Chakrabarty, Learned Counsel
Counsel for Respondent No. 3	Mr. Ajit Kumar Mishra, Mr. Amritam Mondal, Mr. Abhishek Dey, Learned Counsel

JUDGMENT : 6th August, 2026

<u>THE APPELLATE TRIBUNAL :</u>

Instant Appeal has arisen against an order dated 26.02.2019 passed by Learned Debts Recovery Tribunal Siliguri in I.A. No. 56 of 2019 in T.S.A. No. 689 of 2018 (***B.U. Industries & Anr. Versus Central Bank of India & ors***) whereby the Learned DRT disposed of the S.A. No. 482 of 2013 and M.A. No. 10 of 2018 as infructuous.

2. T.S.A. No. 689 of 2018 was originally filed as S.A. No. 482 of 2013, which was pending before the Learned DRT-2, Kolkata wherein the initiated by the Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'Act') was challenged. Vide Notification No. S.O. 831 (E) dated 15th March, 2017, New Delhi, Debts Recovery Tribunal, Siliguri was established and the area of jurisdiction was redistributed amongst the DRT-1, DRT-2, and DRT-3 Kolkata, and DRT Siliguri. Consequent thereto, S.A. No. 482 of 2013 (T.S.A. No. 689 of 2018) was to be transferred to DRT Siliguri. S.A. No. 482 of 2013 was dismissed for non-prosecution by the Learned DRT-2 Kolkata vide Order dated 20th September 2017. An Application for recall being M.A. No. 10 of 2018 was filed by the Appellants, which was disposed of by the Learned DRT-2 Kolkata, holding that the Learned DRT-2 Kolkata cannot entertain the above Application as it does not have the jurisdiction. It can only be heard by the Learned Tribunal at Siliguri having jurisdiction. Accordingly, Registry was directed to transfer the matter before the Learned DRT Siliguri having appropriate jurisdiction.

3. C.O. 2717 of 2018, ***(M/s BU Industries Limited and Another versus Central Bank of India and another)***, was filed by the Appellants, which was allowed by the Hon'ble Calcutta High Court vide order dated 11.01.2019, setting aside the order dated 20th September 2017, as the same was passed without jurisdiction. Consequently, the challenge to the second impugned order, i.e., 10.01.2018 becomes infructuous. However, liberty was granted to the petitioners to approach the appropriate forum for ventilating their grievances, which were taken out before the Learned DRT-2, Kolkata. Subsequent thereto, the S.A. was transferred to DRT, Siliguri, wherein the matter was taken up on 15.02.2019. Due to resolution of the Siliguri Bar Association, same could not be taken up on that day, and was listed on 26.02.2019, on which date none appeared for the Securitization Applicants. However, the Learned Counsel for the Bank pressed for dismissal of the S.A. being infructuous, as a subsequent notice under Section 13(2) of the SARFAESI Act was issued on 06.06.2018, and notice dated 31.10.2018 under Section 13(4) of the SARFAESI Act 2002 were also issued by the Bank. Further, Applicants have also filed a fresh S.A. No. 121 of 2018 challenging the subsequent notices under Section 13(2) and 13(4) of the 'Act' which is pending. Accordingly, Learned DRT passed the impugned order disposing of the S.A. No. 482 of 2013 and M.A. No. 10 of 2018 as infructuous.

4. Feeling aggrieved by the impugned order, Appellants preferred the Appeal.

5. I have heard the Learned Counsel for the parties and perused the record.

6. Learned Counsel for the Appellant has drawn my attention towards an order of Hon'ble High Court of Sikkim Civil Jurisdiction CRP No. 02 of 2012 ***(Chanchal Bhattacharya and others versus M/s B.U Industries Ltd.)*** dated 18.02.2013 which reads as under:

"*This revision was directed against an order dated 28.04.2012 passed by the District Judge (East & North) in a suit filed by the respondent against the petitioner-Bank. While entertaining the revision petition the Court Issued various interim directions, whereunder the respondent/plaintiff was allowed to retain the property subject to payment of initial amount of Rs.30.00 lakhs to the petitioner-Bank, in terms of the order dated 21.05.2012 and thereafter further direction was issued for payment of Rs.5.00 lakhs per month on 21.06.2012.*

During the pendency of this revision, parties expressed their desire to settle the dispute. Despite various opportunities the parties have not been able to settle the matter. It is the case of the petitioner that the Civil Court has no jurisdiction to decide the controversy and the remedy available to the respondent-plaintiff was/is to approach the Appellate Authority, l.e. Debt Recovery Tribunal constituted under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act of 2002) The respondent has also made an application for leave to prefer an appeal before the Debt Recovery Tribunal in accordance with Section 17 of the Act of 2002.

In view of these circumstances, it is deemed appropriate that the respondent be allowed to approach the Appellate Authority. The respondent shall file the appeal before the Appellate Authority within a period of two months. On account of pendency of the proceedings before the Civil Court and before this Court, the limitation will not come in the way of the respondent provided the appeal is filed within two months.

During the pendency of this revision, the respondent has deposited Rs.37.00 lakhs with the petitioner Bank. The petitioner-Bank has claimed an amount of Rs.1,76,86,780/- whereas the respondent admits liability upto Rs.60.00 lakhs. Under the interim direction of this Court the respondent was directed to pay Rs.5.00 lakhs per month, which order has not been fully complied with. Keeping view the respective stands of the parties and the admission of the liability upto Rs.60.00 lakhs by the respondent, the respondent is at least liable to pay Rs.60.00 lakhs. He has already paid Rs.37.00 lakhs and the balance amount of admitted liability is Rs.23.00 lakhs.

Mr. U.P. Sharma, learned counsel appearing for respondent seeks and is allowed 3 (three) months time to deposit Rs.23.00 lakhs, the balance admitted liability. As for the main controversy including the liability of the respondent, the same shall be adjudicated upon by the competent appellate authority in appeal to be preferred by the respondent within two months.

In view of the above circumstances, the present revision petition is disposed of with the above directions.

In view of this order, the suit and contempt petitions filed by the respondent shall stand disposed of. The possession of the property shall remain with the respondent till the final disposal of the appeal."

7. Learned Counsel would submit that the interim order passed by the Hon'ble Sikkim High Court will continue to remain in force as no opportunity was given to the Appellant to prosecute its case before the Learned DRT Siliguri. The dismissal order dated 20th September, 2017 was set aside by the Hon'ble High Court vide order dated 11.01.2019. There was no information to the Appellant about the transfer of the case. The interim order passed by the Hon'ble Sikkim High Court shall automatically get revived after setting aside of the order dated 20th September, 2019. Reliance is placed upon Para No. 17 of a judgment of Hon'ble Supreme Court in ***Vareed Jacob versus Sosamma Geevarghese and***

others (2004) 6 SCC 378. It is submitted that the order of the Hon'ble Sikkim High Court shall automatically get revived.

8. Per contra, Learned Counsel for the Respondent would submit that the S.A. No. 482 of 2013 got infructuous as a fresh notice under Section 13(2) of the 'Act' was issued by the Bank. Even a fresh S.A. under Section 17 of the 'Act' was also filed by the Appellants challenging the sale notice and measures taken by the secured creditor. When subsequent notice was issued under Section 13(2) of the 'Act', earlier notice gets automatically withdrawn and interim protection if any, automatically gets vacated. It was further submitted that after the orders of the Hon'ble High Court at Calcutta dated 11.01.2019 in C.O. No. 2717 of 2018, no Application was moved by the Appellant for revival of the interim order passed by the Hon'ble Sikkim High Court although the order of the Hon'ble Sikkim High Court could not be revived as the Appellants themselves have filed a fresh Securitisation Application No. 121 of 2018, which means that they waived their rights which are being claimed by filing the earlier S.A. No. 482 of 2013.

9. Undoubtedly, territorial jurisdiction of the DRT-1 Kolkata, DRT-2 Kolkata, DRT-3 Kolkata as well as DRT Siliguri was distributed vide notification of the Ministry of Finance, Department of Financial Services, Government of India dated 15.03.2017. It is also not in dispute that S.A. No. 482 of 2013 was pending before the Learned DRT-2

Kolkata due to re-distribution of territorial jurisdiction, S.A. was to be transferred to DRT Siliguri. But the same could not be transferred and was dismissed on 20th September, 2017 by Learned DRT – 2 Kolkata. An Application being M.A. No. 10 of 2018 for recall of the order dated 20.09.2017 was also dismissed on the ground of lack of jurisdiction. Both these orders were set aside by the Hon'ble Calcutta High Court in C.O. No. 2717 of 2018 vide order dated 11.01.2019. However, liberty was granted to the Appellant to approach the proper forum for ventilating their grievances which were taken out before the Learned DRT -2 Kolkata.

10. Despite this order of Hon'ble Calcutta High Court, no petition is filed by the Appellants before the Learned DRT Siliguri for revival of interim order, if so exists, passed by the Hon'ble Sikkim High Court in C.R.P. No. 02 of 2012 dated 18.02.2013. A perusal of the order of Sikkim High Court would reveal that the Appellant herein was given the liberty to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act within two months. Further, it was directed that the possession of the property shall remain with the Respondent till the final disposal of the Appeal. S.A. No. 482 of 2013 was filed by the Appellants herein under Section 17 of the SARFAESI Act which was dismissed and the recall Application was also dismissed. Both these orders were set aside by the Hon'ble Calcutta High Court as observed earlier. The Hon'ble Calcutta High Court categorically held that " Liberty is granted to the petitioners to approach the appropriate forum for ventilating their grievances which were taken out before the Kolkata Debts Recovery Tribunal No.-2" Appellants did not approach the Learned DRT Siliguri to ventilate their grievances. Even they did not put in their appearance before the Learned DRT Siliguri knowing it fully well that the matter is already transferred to Learned DRT Siliguri. A Notice was issued by the Appellant to the Chief Manager, Central Bank of India on 18th August, 2018 wherein it was admitted by the Appellants that the S.A. No. 482 of 2013 has been transferred to DRT Siliguri. It means that the Appellants were having full knowledge of the transfer of S.A. to DRT Siliguri. Despite having full knowledge, they did not choose to appear before the Learned DRT Siliguri on the date fixed i.e. on 15.02.2019 and thereafter, on 26.02.2019 when the impugned order was passed. It showed the deliberate absence of the Appellant before the Learned DRT Siliguri. As far as issue of disposing of the S.A. No. 482 of 2013 as infructuous is concerned, S.A. No. 121 of 2018 is filed by the Appellants challenging the subsequent notice under Section 13(2) and 13(4) of the SARFAESI Act, 2002 which was pending before the Learned DRT Siliguri. When subsequent notice under Section 13(2) of the SARFAESI Act is issued by the Bank, earlier notice under Section 13(2) of the 'Act' shall stand withdrawn and all the actions under earlier notice also shall stand withdrawn. Accordingly, there was no illegality in the impugned order dismissing the S.A. No. 482 of 2013 or M.A. No. 10 of 2018 as infructuous.

11. Learned Counsel for the Appellants vehemently argued that the interim order passed by the Hon'ble Sikkim High Court shall automatically get revived after the setting aside of the order dated 20.09.2017. He placed reliance upon the judgment ***Vareed Jacob versus Sosamma Geevarghese and others*** (supra). Interim orders were passed by the Hon'ble Sikkim High Court in a matter of Appeal preferred against the order of Learned District Judge in a Civil Suit wherein liberty was granted to the Appellant to prefer an Appeal under Section 17 of the SARFAESI Act and the protection was granted pending the appeal under Section 17 of the SARFAESI Act. S.A. was dismissed on 20.09.2017 which was set aside by the Hon'ble High Court on 11.01.2019. Despite granting liberty by the Hon'ble Calcutta High Court to the Appellant to ventilate their grievances before the DRT Siliguri, no petition was filed for revival of the interim order. Further, the law laid down in the case of ***Vareed Jacob versus Sosamma Geevarghese and others*** (supra), would not be applicable to the facts of the case. The Interim order was not passed in the proceedings under Section 17 of the SARFAESI Act. Rather, that was passed by the Hon'ble Sikkim High Court in the Appeal against an order passed in a Civil Suit. Hence, there was no question of automatic revival of any interim order after setting aside of the order of dismissal of S.A. by the Hon'ble

Calcutta High Court on 11.01.2019. Rather, if the Appellant was inclined to get a revival of the orders, he should have moved an Application for revival of the orders as per the liberty granted by the Hon'ble Calcutta High Court. But no such opportunity was availed by the Appellant.

12. We can also take note of the fact that when fresh notice under Section 13(2) and 13(4) of the SARFAESI Act, was issued by the Bank, a new S.A. No. 121 of 2018 was filed by the Appellant challenging the aforesaid notices. It means that when a new challenge is made by the Appellant, he has waived his rights under the old pending S.A. No. 482 of 2013.

13. On the basis of discussions made above, we are of the considered view that Learned DRT has passed the impugned order in accordance with law. There is no infirmity in the impugned order. Appeal lacks merit and is liable to be dismissed.

<u>ORDER</u>

Appeal is dismissed. Impugned order dated 26.02.2019 passed by Learned Debts Recovery Tribunal Siliguri in I.A. No. 56 of 2019 in T.S.A. No. 689 of 2018 ***(B.U. Industries & Anr. Versus Central Bank of India & ors)*** is confirmed.

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 6th day of August, 2026.

(Anil Kumar Srivastava,J)
Chairperson

Dated 6th August, 2026
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