Reportable/Non-Reportable

Judgment reserved on: 9th July, 2026
Judgment delivered on: 6th August, 2026

IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT KOLKATA

Appeal No. 117 of 2022
(Arising out of S.A. 156 of 2009 in DRT- Vishakhapatnam)

HON'BLE MR. JUSTICE ANIL KUMAR SRIVASTAVA
CHAIRPERSON

1. Andhra Pradesh State Financial Corporation at D. No. 13-1-61 & 61/1, Kakinada Branch, Opposite Appollo Hospital, Main Road, Kakinada, East Godavari District;

2. Andhra Pradesh State Financial Corporation, Plot No. OS 2, 2nd Cross, 3rd Road, Industrial Park, Vijayawada – 520007 (Earlier at H.O.5 – 9-194, Chirag Ali Lane, Hyderabad).

… Appellants

-Versus-

1. Masina Veera Prasad, Son of Venkataramana resident of 12-3-15, Masinavari Street, Main Road, Samalakota -East Godavari District.

2. Masina Satyaveni, Wife of Sri M. Veera Prasad resident of 12-3-15, Masinavari Street, Main Road, Samalakota-East Godavari District (both Presently residing at D. No. 70-198-18, Indraprastha Partha, Jayendra Nagar Park, Near RTO Office Road, Ramanyaapeta Kakinada -East Godavari District-533003, Andhra Pradesh.

3. M/s Vensa Bio-Tech Limited D. No. 4-235, G. Rajampet, Peddapuram Mandal, East Godavari District, Andhra Pradesh– 533004.

… Respondents

Counsel for Appellant	…	Mr. Nemani Srinivas Mr. Tirthankar Das
Counsel for Respondents	…	Mr. P. Girish Kumar(senior Adv) Mr. Raghunath Ghose Mr. Debrup Bhattacharjee

JUDGMENT : 6th August, 2026

THE APPELLATE TRIBUNAL:

1. Instant Appeal has been preferred against a judgement and order dated 29.11.2019 passed by Learned DRT

Vishakhapatnam allowing the S.A. No. 156 of 2009 [Masina Veera Prasad -Vs- State Financial Corporation].

2. As per pleadings of the parties the Respondent No. 1 & 2, namely Masina Veera Prasad and Masina Satyaveni, wife of Masina Veena Prasad, filed an Application under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI ACT) (hereinafter referred as to as the 'Act') challenging the action initiated by the Appellant herein i.e. Andhra Pradesh State financial Corporation under Section 13 & 14 of the SARFAESI Act and the auction notice published in 'Andhra Jyothi' newspaper dated 17.09.2009.

3. As per pleadings, Respondent No. 3, namely Vensa Bio Tech Limited represented by its Managing Director, Dr. B. Ravindranath, obtained loan from the financial institution under 3 different loan A/c. Nos. (I) 55848915 (II) 55848923 (III) 55848931. The securitization applicants offered security in respect on only one loan covered by A/c. No. 55848923 for the working capital and collateral. Security was given for item no. 2(b) and 2(c). The promoter i.e. Dr. B. Ravindranath also offered agricultural land covered by S. No. 62/1 situated at Jaggammagaripeta, Samarlakot for same loan. It is alleged that the Securitization applicants have no nexus or are concerned with the two A/c. Nos. 55848915 and 55848931.

4. In A/c. No. 55848923, the loan amount was Rs. 38,00,000/- and an amount of Rs. 36,60,000/- was released by the financial institution in favour of the Respondent No. 3 which was sanctioned on 10.11.2004 and the deeds were deposited by the securitization applicants on 20.11.2004.

5. Financial institution on 26.05.2006 intimated Respondent No. 3 i.e. Vensa Bio Tech Limited that a sum of Rs. 242.71 lakhs were due to it from the Respondent No. 3 and they are proposing to invoke Section 29 of the States Financial Corporation Act, 1951. Thereafter several amounts were paid by the company. Financial institution vide letter dated 27.11.2006 intimated the securitization applicants that a total sum of Rs. 17,62,885/- was due form the Respondent No. 3. The Respondent Company Managing Director assured the securitization applicants that he will clear the dues but in collusion with the officials of the Respondents of financial institution certain documents were forged.

6. A notice under Section 13(2) was issued by the financial institution on 04.11.2008. A representation was made by the securitization applicant on 12.12.2008 which was replied on 31.12.2008 stating that the securitization applicants have mortgaged the property for loan transaction covered by Loan A/c. No. 55848915 and 55848923 and the amount due is Rs. 72,60,000/- which is against the loan documents.

7. Respondent No. 3 on 12.01.2007 addressed a letter to the first Respondent that amount in the A/c. No. 55848923 will be cleared and the collateral security of the Appellant and the Promoter may be returned on 22.01.2007. It is further communicated by the Respondent No. 3 that it has made the payment by cheque and pay orders. Before realizing of the cheque of Rs. 8,50,000/- as balance amount, collateral security offered by the Promoter Dr. B. Ravindranath, Managing Director of the Respondent No. 3 be released. The Security documents offered by the promoter in collusion with the Respondents were released. Security of the principal promoters was released without releasing the property of the guarantors. Subsequently, Auction notice dated 17.09.2009 was published in 'Andhra Jyothi' newspapers which was challenged.

8. Opposition filed by the financial institution denying the assertions made by the Appellants, it is stated that the Appellants stood surety for A/c. No. 55848915 for Rs. 1,71,00,000/- and second A/c. No. 55848923 for Rs. 38,00,000/-. Appellant did not stand surety for the third A/c. No. 55848931. B. Ravindranath also offered his land at Jaggammagaripeth, Samarlakot as collateral security in his individual capacity. Necessary documents were also executed by the Appellants on 16.03.2004 for first loan for Rs. 171.00 lakhs and on 20.11.2004 for second loan for Rs. 38.00 lakhs respectively. B. Ravindranath has also offered his land situated at Jaggammagaripeth, Samarlakot Mandal, East Godavari District in his individual capacity against the two loans aforesaid. Notice dated 26.05.2006 was issued by the Appellants. Prior to the issuance of notice under Section

13(2) on 04.11.2001, notice dated 27.11.2006 and 16.06.2007 were also issued but the account was not regularized. Letter dated 12.12.2008 was sent by the Securitization Applicant which was duly replied on 31.12.2008. Respondent No. 3 vide letter dated 12.01.2007 proposed to pay Rs. 27.10 lakhs and requested the corporation to release the collateral properties situated at Kakinada and 3.00 Acres of agricultural land situated at Jaggammagaripeth, Samarlakot for which the financial institution agreed that the proposal will be accepted on payment of Rs. 30.56 Lakhs. The Respondent Company paid Rs. 22.00 Lakhs on 22.01.2007 and issued cheque dated 22.01.2007 for Rs. 8.56 Lakhs and requested to release 3.00 Acres of land belonging to Dr. B. Ravindra Nath in the first instance. It was also requested that the cheque be deposited on 29.01.2007. 3.00 Acres of Agricultural land was released in favour of Dr. B. Ravindra Nath on 24.01.2007, but the cheque of Rs. 8.56 Lakhs which was presented on 29.01.2007 got dishonored. Subsequently, Rs. 4.00 lakhs was paid by the company on 05.02.2007 and remaining Rs. 4.56 Lakhs was not paid. Despite issuance and publication of the notice in newspapers for sale, notice was also issued to securitization applicant and Dr. B Ravindranath under Section 29 of the State Financial Corporation Act, 1951 and were also informed vide letter dated 25.10.2007 and 05.04.2008, but it was not responded. A Writ Petition No. 24105 of 2007 was filed before the Hon'ble High Court of Andhra Pradesh where a conditional order was passed on 15.01.2007 directing the borrower to deposit Rs. 10 Lakhs with further direction to the corporation that the process of sale may go on but confirmation of the sale may not be done. Conditional Order was not complied and ultimately Writ Petition was dismissed. Learned DRT allowed the securitization application holding that the securitization applicant are liable to pay Rs. 1,56,000/- lakhs only.

9. I have heard the Learned Counsel for the parties and perused the records. The Learned DRT after assessing the submission made by the Learned Counsel for the parties recorded a finding that notice under Section 13(2) issued by the secured creditor to Appellants was not in accordance with law. Although the rejection of the representation of the notice under Section 13 (3-A) of the Act was in accordance with law, the S.A. was filed within the period of limitation.

10. Undisputedly, three loan accounts were created with the secured creditor wherein Respondent no 3 i.e. M/s. Vensa Bio Tech Limited was the borrower. Securitization applicants M. Veera Prasad and Masina Satyaveni were the guarantor and mortgager. As per pleadings of the securitization applicants they were the mortgager and guarantor only for A/c No. 55848923, they were not the guarantor and mortgager for A/c No. 55848915 while the third A/c No. 55848931 have no concern with them.

11. To some extent facts are undisputed that the Respondent No. 3 namely M/s. Vensa Biotech Limited was the borrower of financial institutions, appellant. Loan was secured by creation of the equitable mortgage.

12. On 15.12.2003 financial institutions sanctioned loan of Rs.171.00 lakhs in favour of M/s. Vensa biotech Limited, here in after referred to as the company **A/c No. 55848915 [1st Loan]** was opened. Total amount of Rs. 1,58,88,600/- was disbursed on different dates.

13. Another amount of Rs. 38 lakh was sanctioned by the financial institution in favour of the company on 9.11.2004 **A/c No. 55848923 [second loan]** was created. On 28.07.2005 another working capital loan of Rs. 1,80,00,000/- was sanctioned in favour of the company and A/c No. 55848931 A/c. No. three was opened.

14. Smt. Kilaru Sulochana created an equitable mortgage for A/c. No. i.e. 55848915 on 24.12.2003. Memorandum of deposit of title deed was also created. Dr. B Ravindranath, managing director of the company was the guarantor for the loan. It is alleged that the Respondent No. 1 Masina Veera Prasad and Respondent No. 2 Masina satyaveni also mortgaged their properties as collateral for account number one which property was Plot No. 8 situated at Vakalapudi village, Kakinada, East Godavari district ad measuring 453.25 square yards and Plot No. 61, 63, 65 ad measuring in 453.33 square yards situated at Vakalapudi village, Kakinada, East Godavari district belonging to Respondent No

1 i.e. Masina veena Prasad. S.Y. No. 177, House Plot No. 220 situated at Ramanayyapeta, Kakinada, East Godavari District ad measuring 666.66 square yards belonging to Respondent No. 1. Memorandum of deposit of title deeds was executed. Managing Director of Company also mortgaged his property.

15. As against loan A/c. No. 55848923 loan A/c. No. 2 an amount of Rs. 36,60,000 was disbursed on 23.11.2004. Managing director Dr. B. Rabindranath along with two others Co-guarantors also became guarantor for A/c. No. 2 i.e A/c No. 55848923. Respondent No. 1 Masina Veera Prasad and Respondent No. 2 Masina Satyaveni also stood as mortgager and guarantor by depositing the title deeds for A/c No. 2. Smt. K. Sulochana and Dr. B Ravindranath also offered their properties as security for A/c No. 2.

16. As far as A/c. No. 3 i.e. 55848931 is concerned Respondent No. 1 and 2 are not concerned with that account and they are not the mortgager guarantor regarding those accounts.

17. It would appear from the pleadings of the parties and material available on record that the respondent company paid an amount of Rs. 8,54,311/- on 30.04.2006 towards interest arrears. Rs. 2,07,717/- was paid towards A/c No. 1 i.e. 55848915. Rs. 1,11,276/- was paid towards loan A/c No. 2 i.e. 55848923 and Rs.5,35,318/- was paid towards loan A/c No. 55848931.

18. On 26.05.2006 the company was informed that an amount of Rs. 242.71 lakhs is due and the proceeding under Section 29 of the States Financial Corporation Act, 1951 shall be initiated. The company offered to clear the dues. An amount of Rs.159.95 lakhs was paid by the company in A/c No. 3 i.e. 55848931 and terms to balance arrears for A/c No. 1 and 2 but inadvertently this amount of Rs. 159.95 lacs was adjusted to all the three loan accounts in the following manner :-

Towards interest and O.E. arrears on all loans	Rs. 9.11 lakhs (rounded off) (towards Loam I, Rs. 2,255,418/- and Rs. 521/- were credited. To Loan II - Rs. 1,10,002/- were credited To Loan III – Rs. 5,74,369/- were credited
Towards principal arrears on Loan I-55848915 (as on 31.08.2006)	Rs. 38.50 lakhs
Towards principal arrears on Loan -II 55848931 (as on 31.08.2006)	Rs. 2.00 lakhs
Towards principal outstanding balance on	Rs. 110.34 lakhs (Rs. 745000/- and Rs. 35,84,000/-)

Loan III-55848931	
Total	Rs. 159.95 lakhs

19. On 20.09.2006 mortgaged property of Ravi Kumar was released

20. A letter was issued by the financial institution on 27.11.2006 intimating the total arrears of Rs 17,62,885/- in all the three loan accounts as on 31.10.2006. Subsequently in the letters of the company's mortgage property of Dr. B. Ravindranath in Loan A/c. no. 55848915 and 55848923 were released. After the realization of pay orders of Rs.8.50 lakh and cheque of Rs. 13.50 Lakhs, however the cheque of Rs. 8.56 lakhs presented by the company was dishonored. subsequently some amount of Rs. 4,00,360/- was also paid in three loan accounts.

21. However, on 18.10.2007 it was realized by the financial institution that the amount, which was to be adjusted in loan A/c No. 55848931, A/c No 3 was inadvertently adjusted in all the three accounts accordingly, financial institution transferred the sum of Rs. 36,48,600/- from loan A/c no. 55848931. Accordingly, there were outstanding dues in the A/c No. 1 and 2.

22. The sole issue in the appeal relates as to whether Respondent No. 1 and 2 were the mortgager and guarantor for A/c. No. 55848915 and 55848923 or for only A/c. No. 55848923? Secondly most importantly whether the amount which was deposited in A/c. No. 55848931 can be readjusted or retransferred by the financial institution in all the three accounts later on without any notice to the parties? Whether it was in accordance with law or not?

23. On this ground when we go through the pleadings of the parties, we found that no plea was taken by the financial institution in their written objection file before the Learned DRT rather same submission are made in the written notes of arguments. Perusal of the impugned judgement passed by the Learned DRT would reflect that the Learned DRT has placed much Reliance upon the issue as to whether the amount was deposited by the company in A/c. No. 55848931? Whether it could have been adjusted in all the three accounts? And if not so whether the financial institution was well within its power to readjust the amount from the other two accounts to A/c. No. 55848931. In **Bachhaj Nahar -vs- Nilima Mandal & another [(2008) 17 SCC 491]** it was held in paragraphs 12 , 13 and 17 that :

12. The object and purpose of pleadings and issues is to ensure that the litigants come to trial with all issues clearly defined and to prevent cases being expanded or grounds being shifted during trial. Its object is also to ensure that each side is fully alive to the questions that are likely to be raised or considered so that they may have an opportunity of placing the relevant evidence appropriate to the issues before the court for its consideration. This Court has repeatedly held that the pleadings are meant to give to each side intimation of the case of the other so that it may be met, to enable courts to determine what is really at issue between the parties and to prevent any deviation from the course which litigation on particular causes must take.

13. The object of issues is to identify from the pleadings the questions or points required to be decided by the courts so as to enable parties *to seek a particular relief. If such relief is not found in the plaint, the court cannot focus the attention of the parties, or its own attention on that claim or relief, by framing an appropriate issue. As a result, the defendant does not get an opportunity to place the facts and contentions necessary to repudiate or challenge such a claim or relief. Therefore, the court cannot, on finding that the plaintiff has not made out the case put forth by him, grant some other relief. The question before a court is not whether there is some material on the basis of which some relief can be granted. When there is no prayer for a particular relief and no pleadings to support such a relief, and when the defendant has no opportunity to resist or oppose such a relief, if the court considers and grants such a relief, it will lead to miscarriage of justice. Thus it is said that no amount of evidence, on a plea that is not put forward in the pleadings, can be looked into to grant any relief.*

17. It is thus clear that a case not specifically pleaded can be considered by the court only where the pleadings in substance, though not in specific terms, contain the necessary averments to make out a particular case and the issues framed also generally cover the question involved and the parties proceed on the basis that such case was at issue and had led evidence thereon. As the very requirements indicate, this should be only in exceptional cases where the court is fully satisfied that the pleadings and issues generally cover the case subsequently put forward and that the parties, being conscious of the issue, had led evidence on such issue. But where the court is not satisfied that such case was at issue, the question of resorting to the exception to the general rule does not arise. The principles laid down in Bhagwati Prasad and Ram Sarup Gupta referred to above and several other decisions of this Court following the same cannot be construed as diluting the well-settled principle that without pleadings and issues, evidence cannot be considered to make out a new case which is not pleaded. Another aspect to be noticed is that the court can consider such a case not specifically pleaded, only when one of the parties raises the same at the stage of arguments by contending that the pleadings and issues are sufficient to make out a particular case and that the parties proceeded on that basis and had led evidence on that case. Where neither party put forth such a contention, the court cannot obviously make out such a case not pleaded, suo motu.

24. The issue, however, needs consideration as to whether retransfer of the amount could have been done by the financial institution without notice to the parties. Law is well settled that principle of natural justice have not only to be followed by the court, but it has also to be followed by the institution. When the rights of individual are being targeted or are under challenge by an action or omission of an instrumentality of state, principles of natural justice requires that opportunity of hearing should be given to the person against whom such action is being undertaken by such instrumentality of the state. It means that a notice is required to be issued to the concerned person, giving him an opportunity of hearing in accordance with law.

25. Without entering into the further merits of the matter as to whether the Respondent No. 1 and 2, namely Masina Veera Prasad and Masina Satyaveni, has stood guarantor and mortgagor for A/c. No. 55848923 and 55848915, both or only for account A/c No. 55848923? Whether there was a collusion between B, Ravindranath, Managing Director of the company and the financial institution? Whether an amount of Rs.1,56,000/- only is due against the financial institution, against respondent No. 1 and 2? We are not at this stage entering into the merits of these issues because the judgment of the learned DRT is based basically on the issue that the amount was initially deposited in all the three loan accounts and was retransferred in A/c No. 55848931, Although supplementary affidavit to this effect is filed by the financial institution in the appeal but that cannot be taken into consideration for want of pleadings. Although it is not the duty of this Tribunal to cover up or to fill up the lacunas of the DRT, but since learned DRT has placed much reliance upon this issue, we have to look into the issue in accordance with law. However, since this was not a plea before the learned DRT, no opportunity was given to the securitization applicant to rebut the ground taken by the financial institution.

26. At this stage, we would also like to observe that although Learned DRT has placed much reliance upon the submission made in the written notes of argument by the parties, but at the same time, the Learned DRT should have been conscious enough to see as to whether the written arguments are in consonance of the pleadings of the parties or not? A submission made against the basic principle of law on a fact which is not even pleaded in the pleading should not have been considered by the learned DRT. But since learned DRT has considered the same and placed its finding on that issue, we have no other option but to remand the matter to learned DRT to decide it afresh after giving an opportunity to the parties in accordance with law. Accordingly, appeal is liable to be allowed and matter is remanded back to learned DRT for deciding afresh in accordance with law

O R D E R

Appeal is allowed. Matter is remanded back to the Learned DRT to decide it afresh, in the light of observations in the judgement after giving an opportunity of hearing to the parties in accordance with law.

Since this is an old matter of 2009, it is expected that the Learned DRT should decide the matter as expeditiously as possible, preferably within a period of 12 weeks from the date of copy of this judgement is placed before the Learned DRT.

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: 6th August, 2026
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