

Judgment reserved on: 27.07.2026

Judgment delivered on: 12.08.2026

Appeal No. 98 of 2025-DRAT-Kolkata

IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT KOLKATA

Appeal No. 98 of 2025
(Arising out of S.A. 07 of 2020 in DRT Visakhapatnam)

HON'BLE MR. JUSTICE ANIL KUMAR SRIVASTAVA
CHAIRPERSON

1. Sri Karri Lakshmi, W/p Demudu, Resident of Door No. 58-15-80,
Santhi Nagar, N.A.D. Kotha Road, Visakhapatnam-530009;

... Appellant

-Versus-

1. The Authorized Officer, Syndicate Bank presently Canara Bank at
Madhurawada, Visakhapatnam- 530043.

2. Smt. Anala Saraswathi, W/o. Srinivas Rao, Resident of Door No. 6-31,
Railway Station Road, Gopalapatnam, Visakhapatnam- 530027.

... Respondent

Counsel for Appellant

... Mr. T. Jeevan (Virtual)

Counsel for Respondents

... Mr. Onkar Ganguly

JUDGMENT : 12th August, 2026

THE APPELLATE TRIBUNAL:

Instant appeal has arisen against the judgment and order dated 19.06.2023 passed by the Learned DRT Visakhapatnam, dismissing the S.A. 07 of 2020 (Sri Karri Lakshmi -vs- The Authorized Officer, Syndicate Bank).

2. As per pleadings of the parties, appellant is the borrower of the respondent bank who availed the loan of Rs. 10,00,000/- on 13.10.2015 by creating equitable mortgage of the Schedule A and B properties to the Respondent Bank. The husband of the applicant stood as guarantor. Account became irregular and was classified as NPA. Notice under

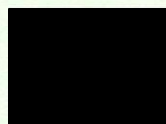


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Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 (hereinafter referred to as the 'Act') was issued by the bank on 11.05.2017 which was served on 19.05.2017 but the demanded dues were not paid. Possession notice under Section 13(4) of the Act, 2002 was issued on 19.08.2017 which was served and published in two newspapers on 22.08.2017 within seven days. Thereafter an application under Section 14 of the SARFAESI Act was filed before the Chief Metropolitan Magistrate, Visakhapatnam, which was allowed and the possession was taken on 09.01.2020. The Appellant preferred the securitization application under Section 17 of the SARFAESI Act challenging the order of the Chief Metropolitan Magistrate of Visakhapatnam dated 07.01.2019 with a further relief to set aside the auction. Sale notice dated 25.01.2021 was issued by the secured creditor. Opposition filed by the Respondents wherein it is stated that the action taken by the bank was in accordance of the provisions of the SARFAESI Act. Auction purchaser also preferred the opposition stating the same facts as are narrated by the bank.

3. Learned DRT held that in the Writ Petition No. 27360 of 2021, Hon'ble High Court of Andhra Pradesh at Amravati passed the following order:

"The petitioner should deposit the total amount for the property has been sold along with 10% interest thereon from the date of E-Auction till 30.12.2021 in a separate



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account and proof thereof shall be filed by way of affidavit by next date of adjournment."

4. Learned DRT held that conditional order of the Hon'ble High Court of Andhra Pradesh at Amravati was not complied with. The action of the bank was in accordance with law. Reserve price was fixed as per the valuation report, submitted by the approved valuer. E-Auction sale has already been conducted and sale certificate was issued in favour of the Auction Purchaser which is also registered. Accordingly, S.A. was dismissed.

5. I have heard the Learned Counsel for the Parties and perused the records.

6. Learned Counsel for the appellant would submit that the Learned DRT has erred in recording its finding regarding compliance of the provisions of the SARFAESI Act, 2002. A sale notice was issued on 25.01.2021 but thereafter no fresh sale notice was issued, although the sale was subsequently conducted. No Valuation report is filed on record by the secured creditor. Possession Notice was not affixed on the secured assets.

7. Learned Counsel for the Respondent would submit that the securitization application under Section 17 of the Act, 2002 is time barred as the limitation was sought from the date of order of Chief Metropolitan Magistrate of Visakhapatnam dated 07.01.2019. It is further submitted that no notice of Bank Commissioner is filed by the Appellant to show as to on what date he came to know about the impugned order. It is further submitted that no plea of



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under valuation was taken in the S.A. although valuation report was filed by the bank. The directions issued by the Hon'ble High Court in the Writ Petition were also not complied to by the Appellant. No challenge to the sale is made in the S.A. however, an I.A. was filed challenging the sale which was dismissed. Order was not challenged. It is further submitted that the sale was conducted in accordance with law.

8. In the S.A. filed under Section 17 of the Act, relief sought was to set aside the order passed under Section 14 of the Act by the Chief Metropolitan Magistrate of Visakhapatnam dated 07.01.2019. Securitization Application was filed on 27.07.2023. Subsequently, by amendment E-Auction sale notice dated 25.01.2021 issued under Rule 8 (6) of the Security Interest (Enforcement) Rules, 2002 was also challenged.

9. Section 17(1) of the Act provides that the application should be filed within 45 days from the date from which the measures referred to in sub-section (4) of Section 13 taken by the Secured creditor, was challenged by the Applicant. Challenge to the order under Section 14 dated 07.01.2019 was initially made which should have been challenged within 45 days but the same was not challenged within time. Further, in the Limitation Clause, limitation was sought from 12.12.2019, when the respondent has taken physical possession of Schedule-A Property. Accordingly, the challenged made by the appellant in the S.A. was not within



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the prescribed period of limitation and was barred by limitation.

10. Jural relationship of creditor and borrower between the parties is not in dispute. Account of the Appellant became irregular and was classified as NPA on 03.05.2017. Notices under Section 13(2) of the Act was issued on 11.05.2017 which was received on 19.05.2017, thereafter possession notice under Section 13(4) was issued on 19.08.2017 which was also affixed on secured assets and was published in the two newspapers on 22.08.2017. Subsequently, application under Section 14 of the Act was preferred before the Chief Metropolitan Magistrate of Visakhapatnam. Accordingly, there is no illegality in the steps taken by the secured creditor.

11. Challenge to the Notice issued under Rule 8(6) of the Rules, 2002 was also made. An I.A. 1724 of 2022 challenging the sale was filed before the Learned DRT which was dismissed. That order was not challenged and attained finality. As far as the notice under Rule 8(6) of the Rules is concerned, in the Securitization Application no ground is mentioned to show as to on what ground notice is being challenged. However, perusal of the notice would reveal, which was issued on 25.01.2021 and the auction was fixed on 08.03.2021, was in accordance with law.

12. In **M. Rajendran and others -vs- KPK Oils and Proteins India Pvt. Ltd. and Others. (2026) 3 SCC 505**, it was held in Para 168(v) that;

(v) The notice of sale both under Rule 8(6) read with Rule 9(1) respectively can be served as well as published in the newspaper,



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simultaneously on the same date. All that is required under Rule 9(1) is that a thirty-day gap is maintained between the date the notice of sale is served, affixed and published, whichever is later, as the case may be, till the date of actual sale.

13. Learned Counsel for the Appellant raised the plea of under-valuation in conducting the sale, however, since, neither the sale is under challenge nor the plea of under valuation is taken in the securitization application, accordingly, the issue of under valuation loses its importance and could not be looked into.

14. Learned DRT has rightly arrived at this conclusion that the E-Auction was conducted in accordance with law. Further, in the writ petition before the Hon'ble High Court, conditional order was passed giving a liberty to the Appellant to pay same amount, but the same amount was also not complied to by the Appellants. Sale certificate has already been issued and registered in favour of the Auction Purchaser. It was held by the Hon'ble Apex Court in **Celir LLP -vs- Mr. Sumati Prasad Bafna & Ors. (2024 SCC OnLine SC 3727)** in Para 218 that;

218. Any sale by auction or other public procurement methods once already confirmed or concluded ought not to be set-aside or interfered with lightly except on grounds that go to the core of such sale process, such as either being collusive, fraudulent or vitiated by inadequate pricing or underbidding. Mere irregularity or deviation from a rule which does not have any fundamental procedural error does not take away the foundation of authority for such proceeding. In such cases, courts in particular should be mindful to refrain entertaining any ground for challenging an auction which either could have been taken earlier before the sale was conducted and confirmed or where no substantial injury has been caused on account of such irregularity.

15. Sale certificate is issued and registered in favour of the Auction Purchaser. No ground could be shown by the



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Appellants which goes to the root of the matter to prove collusion between the parties or inadequate pricing or under valuation. Accordingly, rights of the Auction Purchaser have to be protected in such cases.

16. On the basis of discussions made above, we are of the considered view that Learned DRT has rightly arrived at its findings. No interference is called for in the appeal. Appeal lacks merit and is liable to be dismissed.

O R D E R

Appeal is dismissed. Impugned judgment dated 19.06.2023 passed by Learned DRT Visakhapatnam in S.A. No. 07 of 2020 (Sri Karri Lakshmi -vs- The Authorized Officer, Syndicate Bank and Others) is confirmed.

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

12/0/26

Dated: 12th August, 2026
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