

DEBTS RECOVERY APPELLATE TRIBUNAL, DELHI

Misc. Appeal No.240/2026

Arising out of TSA no.04/2022 (DRT-I, Delhi)

Item No. 6

Simarpreet Singh Bhatia & others

V

Cholamandalam Investment and Finance Company & others

03.08.2026 Hon'ble Dr. Justice Sudhir Kumar Jain

Present: Sh. Nimish Chib and Sh. Shivam Nayak, Advocates for the appellants
Sh. Vivek Singh, Advocate for the respondent no.1 through VC
Sh. Kamal Kumar, respondent no.2 auction purchaser in person

This matter is taken up through Hybrid hearing.

ORDER (ORAL)

I.A. No.1055/2026 (application for condonation of delay)

1. The instant application is filed for condonation of 136 days delay in filing the present appeal. Sh. Nimish Chib, Advocate for the appellants argued that in the present appeal two orders dated 04.02.2026 and 17.07.2026 are challenged and if the limitation is counted from the order dated 17.07.2026, there is no delay in filing the present appeal. It is further stated that the delay, if any, was also caused as the appellant had filed a writ petition bearing W.P(C) no.2565/2016 before Delhi High Court. After considering all facts the delay, if any, in filing the present appeal is condoned. The application is allowed accordingly.

I.A. No.1057/2026 (application for waiver of pre-deposit)

2. Sh. Vivek Singh, Advocate for the respondent no.1 stated that the subject property was sold in auction for Rs.1.03 crores and as per the notice under Section 13(2) of the SARFAESI Act a sum of Rs.1.33 crore was outstanding against the appellants. Sh. Chib, Advocate for the appellants stated that the appellant has already made a pre-deposit of Rs.50 lacs. Since the appellant has deposited a

substantial amount towards pre-deposit which is stated to be more than 25% of the outstanding dues, after considering all facts the this Tribunal is of the opinion that the condition of making pre-deposit stands satisfied. The application is decided accordingly.

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3. The appellants filed S.A. bearing no.04/2022 titled as **Simarpreet Singh Bhatia & others V Cholamandalam Investment and Finance Company Limited & others** which is stated to be pending before DRT-I, Delhi. The appellant filed an application bearing I.A. no.1581/2026 for restraining the respondent no.1 Financial Institution from taking physical possession of the property being Flat no.H-7 (third top floor-HIG) of Shanti Cooperative Group Housing Society Ltd. presently known as Shanti Apartment at Plot no.7/1, Sector-13, Rohini, Delhi on 20.02.2026. The appellants in the application contended that the appellants have settled with the respondent no.1 vide settlement dated 21.11.2025 for a sum of Rs.1.02 crores and out of which the appellants have already paid a sum of Rs.44.50 lacs but could not pay the balance amount. The respondent no.1 put the subject property on auction on 04.02.2026 without complying with the mandatory provisions of the Security Interest (Enforcement) Rules, 2002. It was contended on behalf the respondent no.1 that the respondent no.1 had taken with all the measures under the SARFAESI Act including issuance of notices under Section 13(2) and 13(4) of the SARFAESI Act and DRT had already rejected similar prayer vide order dated 04.02.2026. The appellants have not honoured the settlement dated 21.11.2025.

4. DRT-I, Delhi in the impugned order observed that the appellants had availed loan facilities against the mortgage of the subject property and there was default on the part of the appellants in depositing the balance settlement amount. It was also observed that the notices under Section 13(2) and 13(4) of the SARFAESI Act were issued to the borrower, the mortgagor and the guarantor. The appellants had never challenged the order dated 04.02.2026. The relevant portion of the impugned order dated 17.07.2026 is reproduced as under:-

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6. Apparently, the borrower has availed the loan facilities from the respondent FI against the mortgage of the property in question and admittedly there is default on the part of the applicant in depositing the balance settlement amount with the respondent FI as per the settlement letter dated 21.11.2025. Further, as per the respondent FI, the notices under Section 13(2) and 13(4) of the SARFAESI Act and the sale notice have been duly served upon the borrower/mortgagor/guarantor. Further this Tribunal vide order dated 04.02.2026 has prima facie decided the aforesaid issues raised by the applicant and admittedly, the aforesaid order dated 04.02.2026 has not been challenged by the applicant till date meaning thereby the aforesaid order dated 04.02.2026 has attained finality. However, all these issues shall be decided at the time of final stage after leading the evidences by the parties.

7. In the light above facts and circumstances of the case, this Tribunal is of the prima facie view that at this stage no ground has been made out in favour of the applicant for granting the interim relief. Accordingly, the interim prayer of the applicant for restraining the respondent FI / court receiver from taking physical possession of the property in question on 20.07.2026, stands rejected.

5. Sh. Nimesh Chib, Advocate for the appellant argued that the appellants settled with the respondent vide settlement dated 21.11.2025 and out of which the appellants have paid about Rs.50 lacs to the respondent no.1. It is further argued that the respondent no.1 issued notices under Section 13(2) and 13(4) of the SARFAESI Act during the period of compliance, which is against the rules and the legal provisions. Sh. Chib further stated that there is a casualty in the family of the appellants yesterday and in the circumstance prayed that the impugned orders dated 17.07.2026 and 04.02.2026 be set aside.

6. Sh. Vivek Singh, Advocate for the respondent no.1 argued that the respondent no.1 has followed due process of law and the subject property has already put on auction and a sale certificate in favour of the auction purchasers who are respondents 2 and 3 in this appeal has already been issued. It is further argued that the appellants have not complied with the OTS. It is prayed that the present appeal be dismissed.

7. The respondent no.2 who appeared in person through VC argued that he has already paid the entire sale amount and sale certificate has already been issued in

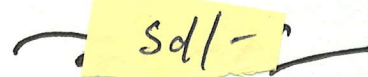
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favour of the respondents 2 and 3. It is further stated that the respondents 2 and 3 after making the entire payment of sale consideration about six months ago are still waiting for the possession of the subject property. It is firmly stated that the possession of the subject property be handed over to the respondents 2 and 3 being the auction purchasers.

8. It is apparent that the appellants did not fully comply with the OTS dated 21.11.2025 and could not at this stage point out any infirmity or illegality in the notices under Sections 13(2) and 13(4) of the SARFAESI Act or any other measures taken by the respondent no.1. Sale certificate has already been issued in favour of the respondents 2 and 3 being the auction purchasers. DRT in the impugned order dated 17.07.2026 has considered all the relevant facts and also observed that the order dated 04.02.2026 was never challenged. There is no illegality or infirmity in the impugned order which warrants any interference by this Tribunal. The appeal is accordingly dismissed as being devoid of any merit. However, in view of the submission made by Sh. Nimish Chib, counsel for the appellants that there is a casualty in the family of the appellants, the respondent no.1 is expected not to take the possession of the subject property for another 15 days from today.

9. The pre-deposit, if any, made by the appellants be returned to them after verification and as per rules.

10. The date of 12.08.2026 already fixed stands cancelled.



**(Dr. Justice Sudhir Kumar Jain
Chairperson**

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