

Appeal No..97 of 2026 -DRAT-Kolkata

**IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT
KOLKATA
HON’BLE MR. JUSTICE ANIL KUMAR SRIVASTAVA
CHAIRPERSON**

Appeal No. 97 of 2026
(Arising out of I.A. No. 797 of 2024 in SA No. 150 of 2024 in
DRT- Guwahati)

- 1. Axis Bank Limited, RAC Centre, Dr. B.K. Kakoty Road, Ulubari, Guwahati, District Kamrup(M), Assam-781007.
- 2. The Authorised Officer, Axis Bank Ltd. Dr. B.K. Kakoty Road, Ulubari, Guwahati, District Kamrup(M), Assam-781007.

....Appellants

-Versus-

- 1. Mr. Chatur Kumar Singh, Flat No. 5A, Imperial Blue Apartment, District- Kamrup (M), Guwahati, Assam, Pin – 781029.

....Respondents

Counsel for Appellants	Mr. P.K. Mukherjee, Learned Counsel Mr. Sayak Ranjan Ganguly, Learned Counsel Ms. Chaitali Acharya Learned Counsel
Counsel for Respondent Nos. 1 & 2	None

JUDGMENT : 14th August, 2026

THE APPELLATE TRIBUNAL :

Instant Appeal is preferred against the Judgment and Order dated 24th June 2025 passed by Learned DRT

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Guwahati in S.A. No. 150 of 2024 (***Chatur Kumar Singh versus Axis Bank Limited***) whereby the Learned DRT allowed the S.A.

2. Facts in brief are that the Securitisation Applicant preferred the Securitisation Application under Section 17(1) of the SARFAESI Act, 2002 for setting aside the Possession Notice dated 25.04.2022 Vacation Notice dated 14.11.2024 and Order dated 02.11.2024 passed by Learned District Magistrate, Kamrup (M) under Section 14 of the SARFAESI Act, 2002.

3. Admittedly, there is jural relationship between the borrower and the creditor and the parties. The account became irregular and was classified as NPA. The Appellant proceeded under the SARFAESI Act, and issued the Demand Notice on 09.09.2021 and Possession Notice dated 25.04.2022. It is alleged in the S.A. that the Notice under Rule 8(1), 8(2) and 8(2-A) of the Security Interest (Enforcement) Rules 2002 were neither served nor affixed or published in accordance with law. Demand Notice as well as Possession Notice did not contain the date of classifying the account as NPA. Description of the properties were also not indicated in the Possession Notice dated 25.04.2022. There was also violation about the Redemption Clause and it was not in accordance with the Appendix IV [Rule 8(1)] of the Rules. Possession Notice was not published in two leading newspapers. Notices were also not served upon the Securitisation Applicants. In the meantime, an Order under Section 14 of the SARFAESI Act, was obtained from the

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Learned District Magistrate Kamrup (M) on 02.11.2024 which too is not in accordance with law as there are violation of mandatory provisions of the Act and Rules.

4. Appellant Secured Creditor filed the opposition and submits that all the actions initiated by the Bank were in accordance with the provisions of SARFAESI Act and Rules. There is no violation of any provisions of the Act or Rules. Learned DRT vide impugned judgment held that the Demand Notice was not duly served upon the Securitisation Applicant and it is in violation of Rule 3(1) of the Rules. Possession Notice was not duly served upon the Securitisation Applicant. It was also published in only one newspaper on 30th April, 2022 which is in violation of Rule 8(2) of the Rules. There was no affixation of the Possession Notice on the conspicuous part of the mortgaged property which is in violation of the Rule 8(1) of the Rules. There are variations of the dates of the notices. Accordingly, Learned DRT allowed the S.A.

5. Learned Counsel for the Appellant would submit that there are certain documents which should have been filed before the Learned DRT but could not be filed which they have filed under Order 41 Rule 27 of the Code of Civil Procedure, 1908. Accordingly, stand taken by the Securitisation Applicant could not sustain.

6. Additional evidence is filed by the Bank which relate to the notices as well as their affixation and service. The evidence filed during the course of Appeal is additional evidence which have bearing on the merits of the matter. In

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such circumstances, without entering into the merit of the matter, we found it appropriate that the matter should be remanded back to the Learned DRT to decide it afresh after affording an opportunity of hearing to the parties.

ORDER

Appeal is allowed. Impugned Judgment and Order dated 24th June, 2025 passed by the Learned Debts Recovery Tribunal Guwahati in S.A. No. 150 2024 (***Chatur Kumar Singh versus Axis Bank Ltd. & Anr.***) is set aside. Matter is remanded back to the Learned DRT to decide the S.A. afresh after affording an opportunity of hearing to the parties. Parties would be at liberty to raise their plea and file the documents in accordance with law.

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 14th day of August, 2026.

(Anil Kumar Srivastava,J)
Chairperson

Dated 14th August 2026
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