Debts Recovery Tribunal-I, Delhi
4th Floor, Jeevan Tara Building,
Parliament Street, New Delhi
PRESIDING OFFICER:
SHRI GOVIND BALLABH SHARMA

TSA/17/2023

1. Mrs.Tasleem w/o Wazir Ahmed
R/o H.No.2253/H, Mandir Wali Gali
Shadipur, Patel Nagar,
Central District, Delhi-110008

--Applicant

Versus

1. Bank of Baroda
Ashok Vihar Branch,
30, Community Centre, Ashok Vihar Phase I
Delhi-110052

2. Sh.Suresh Mandowara
s/o Sh.Ratan Lal Mandowara
R/o J-112, Third Floor,
Ashok Vihar Phase I, Delhi-110052

--Respondents

Present:

For the Applicant : Mr. Dhanajay Singh, Advocate.
For the respondent Bank : Mr.Amit Mahaliyan, Advocate.
For the Respondent no.2/ Borrower : Mr.Reena Jain with Sh.Anand Aggarwal, Advocate

Date of Reserve: 10.04.2026
Pronouncement: 23.04.2026

FINAL ORDER

The present securitization application has been filed by the S. applicants under Section 17 of the SARFAESI Act, 2002

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for issuance of direction to the respondent bank to de-seal the property bearing Municipal No.55962 to 5598, 56282 to 5624 on Plot No.34, South Ward No.XIV, Basti Harphool Singh, Sadar Thana, Delhi admeasuring 15 sq.yds. (hereinafter referred as the property in question) and handover the possession with previous chains of the property and execute sale deed.

2. It has been submitted on behalf of the applicant that the respondent bank has auctioned the property as per order passed by this Tribunal through notice published in newspapers and applicant became successful bidder for purchasing the property in question and the respondent bank issued sale certificate dated 30.06.2018 and thereafter the applicant deposited complete payment of Rs.4.80 lacs by complying all the provisions. It has further been submitted that the respondent bank handover the possession on same day and issued possession receipt in favour of applicant. It has further been submitted that applicant invested money in repairs and maintenance work and was enjoying peaceful and physical possession over the property after getting possession and respondent bank had handover original previous chain of property to the applicant. It has further been submitted that the applicant purchased stamp duty papers for registration and informed the same to the officials of respondent bank but they

did not give any satisfactory reply. It has further been submitted that applicant handover the original previous chains of the property, original possession receipt and possession receipt of the property to Bank Manager who stated for some correctness in the documents and will return all the documents within two days to execute sale deed. It has further been submitted that the applicant has no knowledge of banking procedure being less educated. It has further been submitted that the respondent bank officials are not executing sale deed and refused to provide previous chain of property even after execution of sale certificate and possession receipt after receiving complete consideration amount from the applicant. It has further been submitted that the respondent bank sealed the property in question without any notice and without any order by this Tribunal which is highly illegal and malafide and conduct of officials is highly improper and illegal in the eyes of law. It has further been submitted that applicant filed complaint with Police Station in this respect as respondent bank has no right over the property after execution of sale certificate and it is legal duty of respondent bank to execute sale deed in favour of applicant being highest bidder of property after payment of consideration amount. It has further been submitted that previous chain of title documents and possession receipts are necessary proof of ownership right of property in question and

accordingly, it has been prayed for allowing the present securitization application.

3. On the other hand, Ld. counsel for respondent bank has vehemently opposed the submission of Ld. Counsel for the applicant and submitted that M/s Vaibhav Laxmi Impex Private Limited availed the Overdraft facility of Rs.20.00 lacs in the year 2004 which was enhanced to Rs.200.00 lacs in 2013 against personal guarantee of Mrs.Chandra kala Mandowara, Sh.Suresh Mandowara i.e. respondent no.2 and Sh.Jeta Ram Chaudhary (now deceased) and mortgage of property in question owned by respondent no.2 and also Property situated at 2nd Floor, Plot No.112, Block J, Wazirpur Residential Scheme, Ashok Vihar, Delhi owned by Mrs.Chandra kala Mandowara, sold in public auction for Rs.86.50 lacs. It has further been submitted that M/s Vaibhav Laxmi Impex Private Limited – borrower failed to maintain the account and classified as NPA on 29.06.2016 and respondent bank issued notice u/s 13 (2) of SARFAESI Act 2002 including guarantors for Rs.2,08,17,174.12 along with interest. It has further been submitted that in reply, borrower sent OTS proposal on 30.08.2016 without any amount which was rejected. It has further been submitted that respondent filed application u/s 14 before Hon'ble Court of CMM and vide dated 20.03.2017, Court Receiver was appointed for taking possession of property in question. It has further

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been submitted that SA no.143/2017 u/s 17 titled as "Chandra Kala Mandowara Vs BOB' was filed before this Tribunal which was dismissed on 27.03.2018 declaring action taken under SARFAESI Act as valid. It has further been submitted that the property in question was put up for auction on 12.06.2018 duly published in newspapers and applicant was declared as successful bidder as single bidder for Rs.4.80 lacs. It has further been submitted that preliminary documentation was carried out between the applicant and respondent bank and found that since the bid was exactly the reserve price and cannot be confirmed without the consent of borrowers in accordance with Rule 9 (2) of the Security Interest (Enforcement) Rules 2002. It has further been submitted that since bid was at reserve price only, cannot be confirmed without consent from borrower. It has further been submitted that the borrower moved IA no.1018/2018 for redeem the property / set aside the sale of property in question in OA No.164/2017 filed by respondent bank against the borrower stating that he has better buyer at Rs.5.00 lacs against bid amount of Rs.4.80 lacs. It has further been submitted that applicant filed IA No.1196-97/2018 seeking directions to handover the original documents of property in question which was disposed of vide order dated 20.12.2018 being not pressed. It has further been submitted that respondent bank

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sent letter dated 15.03.2019 for consent from borrower who vide letter dated 17.03.2019 submitted that not satisfied with value of property sold and sent letter dated 15.04.2019 stating one Mukesh Chandra Maheshwari shown interest in property in question for Rs.5.15 lacs vide Demand Draft as counter to auction bid. It has further been submitted that the respondent bank offered the applicant to participate in inter-se bidding with proposed buyer of borrower or have the money back but applicant has filed this application. It has further been submitted that applicant is absolute ignorant or SARFAESI Act instead of understanding Rule 9 (2) of the Act, preferred to file the application and since respondent bank has followed the provisions of the Act and Rules, therefore, present appeal fails to prove any defect and deserves to be dismissed with costs.

4. The respondent no.2 in his written submissions submitted that the borrower was sanctioned financial facility of Rs.20 lacs which was enhanced to Rs.2 crore duly secured by mortgage of residential house no.112, J Block Ashok Vihar Phase I, Delhi and property in question owned by him, however, due to change in market condition, business suffered huge losses and account was declared NPA and notice u/s 13(4) was issued. It has further been submitted that respondent borrower offered to settle account under OTS but refused by respondent bank.

It has further been submitted that borrower filed SA no.143/2017 on 02.12.2016 and this Tribunal directed to maintain status quo in respect of property in question and dismissed the same vide order dated 27.03.2018. It has further been submitted that respondent bank auctioned the property as Ashok Vihar for Rs.86.00 lacs without mandate and notice of auction and respondent no.2 filed SA challenging the auction conducted which is still pending. It has further been submitted that property was put up for auction on 12.06.2018 and the applicant was single bidder with bid of Rs.4.80 lacs which was reserve price exactly and cannot be confirmed without the consent of borrower i.e. defendant no.2 in accordance with Rule 9(2) of Security Interest (Enforcement) Rules 2002. It has further been submitted that respondent no.2 filed IA no.1018/18 for redeem the property/set aside the sale of property in question in OA No.164/17 filed against by BOB Vs borrower and offered better buyer at Rs.5.00 lacs against bid amount of Rs.4.80 lacs and applicant filed IA No.1196-97/18 seeking directions to the bank for handover the original documents but was disposed off being not pressed vide order dated 20.12.2018. It has further been submitted that respondent bank sought consent from respondent no.2 for sale of property at Rs.4.80 lacs vide letter dated 15.03.2019 which was replied on 17.03.2019 stating that he is not satisfied with

value of property sold. It has further been submitted that in response, the borrower vide letter date 15.04.2019 submitted that one Sh.Mukesh Chandra Maheshwari has shown interest in property along with Demand Draft of Rs.5.15 lacs. It has further been submitted that respondent bank offered two options to applicant either to participate in inter-se bidding or have the money back. It has further been submitted that applicant has raised illegal objection like possession of property in question and documents taken back by respondent bank forcefully whereas applicant had handover the possession and documents on her own will and knowing present issued involved. It has further been submitted that Rule 9 is mandatory in nature and safeguards borrowers' rights not enacted solely for the benefit of auction purchaser but for protection of borrower against arbitrary deprivation of property and non-compliance vitiates the sale proceedings in toto. It has further been submitted that Rule 9 (2) cannot override section 13 (8) which preserves the borrowers' right of redemption until sale is completed in accordance with law and any sale confirmation without due compliance of law is arbitrary and liable to be set aside. It has further been submitted that this Hon'ble tribunal to examine whether mandatory statutory provisions under Rule 9 (2) were complied with. It has further been submitted that Confirmation of sale under rule 9 (2),

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concealment of material facts or denial of borrowers' right is void and unenforceable. Therefore, impugned sale and consequential actions deserve to be set aside as bank is responsible to recover maximum amount from mortgaged property which cannot be sold on throw away price when better buyer ready to pay the value of property immediately and i410n. view of the above, the application deserves dismissal with costs.

5. The applicant in her reply u/o 1 Rule 10 R/W Section 151 of CPC submitted that application of respondent no.2 is liable to be dismissed as it must be filed SA u/s 17 of Act and has not filed proper court fee without any cause of action. It has further been submitted that application has been filed on last date of hearing i.e. 26.07.2019 after 13 months from date of bidding. It has further been submitted that from 12.06.2018 till date, no stay has been passed against said bidding and application filed with connivance of bank officials of respondent. It has further been submitted that application has been filed to delay the proceedings despite knowledge of bidding as notice was published for e-auction. It has further been submitted that borrower not paid the instalments and after classification of account as NPA could not pay the amount and applicant had become successful bidder, paid the entire amount to bank by

following complete process as per law. It has further been submitted that respondent bank failed to serve sale notice upon borrower. It has further been submitted that respondent bank vide letter dated 09.04.2019 granted one week time for bringing better buyer which is in gross violation of the law and void-ab-initio and offer letter dated 15.04.2019 with demand draft of Rs.5.15 lacs is misuse of process of law and in gross violation. It has further been submitted that respondent no.2 is not a necessary party to be impleaded as the present securitization application, liable to be dismissed. It has further been submitted that when the application of borrower already disposed of then why respondent bank not executed the sale deed which is malafide and committed the offence of cheating, misappropriation of funds.

6. It has been argued by the applicant that respondent bank in its reply mentioned that loan to Vaibhav Lakshmi Impex Pvt. Ltd. & Respondent no.2 was sanctioned against mortgage of property and upon failure to repay the loan, respondent bank issued notice u/s 13 (2) on 18.08.2016 and filed application u/s 14 and taken the possession through Court Receiver and auctioned for Rs.4.80 lacs on 12.06.2018 to single bidder i.e. applicant but respondent no.2 did not bother to pay the loan prior to payment of bid amount deposited by applicant till

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15.04.2019 while respondent bank issued Sale Certificate and Possession Receipt in favour of applicant on 30.06.2018. It has further been submitted that respondent bank illegally put lock on the property of auction purchaser and took original previous chain of property and possession receipts fraudulently. It has further been submitted that applicant filed judgement in Civil Appeal No.5542-5543/2023 of Hon'ble Supreme Court of India titled as "Celir LLP Vs Bafna Motors (Mumbai) Pvt.Ltd. and two judgements vide Diary No.91312024 dated 06.12.2024 of Hon'ble High Court of Delhi titled "Mahipal Singh Yadav Vs Union Bank of India" and Varghese Ukken Vs SBI 2010 SCC Online Ker 4745. In view of the above submissions, applicant prayed to allow the application in favour of applicant.

7. Heard the rival contentions of both the parties and perused the records thoroughly.

8. Apparently, the present securitization application has been filed by the applicant – auction purchaser seeking direction to the respondent bank to hand over the physical possession of the property in question and also hand over the title documents to the applicant. Admittedly, the borrower has availed the loan facilities from the respondent bank against the mortgage of the various properties including the property in

question and after availing the loan facilities the borrower did not maintain the financial discipline and accordingly, the account was declared as NPA. Thereafter, the respondent bank has issued the demand notice dated 18.08.2016 under section 13 (2) of the SARFAESI Act, 2002 and also put the property in question for auction on 12.06.2018 at the reserve price of Rs.4.80 lacs and the applicant was single bidder with bid of Rs.4.80 lacs and was declared as successful bidder and accordingly the auction sale was confirmed in favor of the applicant. However, in terms of Rule 9 (2) of the Security Interest (Enforcement) Rules, 2002 the auction sale was cancelled by the respondent bank and feeling aggrieved by the said action the applicant has approached this Tribunal. Before proceeding in the present matter, we may go through the Rule 9 (2) of the Security Interest (Enforcement) Rules, 2002, which is reproduced herein below:

Rule 9 (2) of the Security Interest (Enforcement) Rules 2002:

"The sale shall be confirmed in favour of the purchaser who has offered the highest sale price in his bid or tender or quotation or offer to the authorised officer and shall be subject to confirmation by the secured creditor.

Provided that no sale under this rule shall be confirmed if the amount offered by sale price is less than the reserve price specified under sub-rule (5) of (rule 8).

PROVIDED FURTHER that of the authorized officer fails to obtain a price higher than the reserve price, he may, with the consent of the borrower and the secured creditor effect the sale at such price".

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9. In the present matter, the property in question was put for auction on 12.06.2018 at the reserve price of Rs.4.80 lacs and the applicant was single bidder with bid of Rs.4.80 lacs and was declared as successful bidder meaning thereby the bid offered was the same as the reserve price and therefore, the Authorised Officer of the respondent bank could have confirmed such sale only with the consent of the borrower and accordingly, as per Rule 9 (2) of the Security Interest (Enforcement) Rules, 2002 the authorized officer of the respondent bank has sent a letter dated 15.03.2019 for consent from borrower, who vide letter dated 17.03.2019 submitted that he is not satisfied with value of property sold and thereafter the respondent bank has cancelled the auction sale conducted qua the property in question. In this regard, the Hon'ble Madras High Court in the case of K.Raamaselvam vs Indian Overseas Bank (vide order dated 29.07.2009 passed in Writ Petition No.9729 of 2009) has observed as under:

> ".....—9. A bare reading of Rule 9 (2) makes it clear that three contingencies can arise when an auction takes place. Those are,
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> (i) the bidder offers an amount, which is more than the upset price, (ii) the bidder offers an amount, which is less than the reserve price, and (iii) the bidder offers an amount, which is neither less nor more than the upset price. If the amount offered by the highest bidder is more than the upset price fixed under Rule 8(5) the sale shall be confirmed in favour of such higher bidder. This however, is subject to confirmation by the Secured Creditor. If the bid amount is less than the upset price, no sale shall be confirmed as contemplated under the first Proviso to Rule 9(2). The

Second Proviso makes it clear that if the Authorised Officer fails to obtain a price higher than the reserve price, the sale can be confirmed only with the consent of the borrower and the Secured Creditor. It is thus obvious that if the price offered is same as the reserve price, it cannot be said that the Authorised Officer has obtained a price higher than the reserve price. A combined reading of all the provisions contained in Rule 9(2) makes it clear that if the price offered is higher than the reserve price, it shall be confirmed by the Authorised Officer, but such confirmation is subject to the further confirmation by the Secured Creditor. If however, price offered is not higher than the reserve price, which means it may be on par with the reserve price or less than the reserve price, the auction can be confirmed only with the consent of the borrower and the Secured Creditor and not otherwise. Learned counsel for the Bank by relying upon the decision of the Supreme Court, has submitted that in normal circumstances, reserve price is fixed to indicate the minimum price at which property can be sold. We do not think that such a contention can be accepted in view of Second Proviso to Rule 9(2) is to the effect that if the Authorised Officer fails to obtain a price higher than the reserve price it can be confirmed only with the consent of the Secured Creditor as well as the borrower and not bereft of such consent. But the learned counsel for the Bank as well as purchaser had submitted that since the proceeding under Section 17 is pending, the question now raised in the Writ Petition as well raised in the proceedings and in view of such existence of such alternative remedy, the Writ Petition should not be entertained.

12. In the present case, the bid offered was the same as the reserve price and therefore, the Authorised Officer could confirm such sale only with the consent of the borrower and the Secured Creditor. It is crystal clear from the present stand taken by the borrower indicates that there is no consent for confirmation of such sale. As a matter of fact, the Authorised Officer has never bothered to find out from the borrower whether he was willing that the sale should be confirmed, despite the fact that the Authorised Officer had failed to obtain a price higher than the reserve price....."

10. Apparently, the property in question was put for auction on 12.06.2018 at the reserve price of Rs.4.80 lacs and the applicant was single bidder with bid of Rs.4.80 lacs and if the bid offered is same as the reserve price, then such sale could have been confirmed only with the consent of the borrower as

per Rule 9 (2) of the Security Interest (Enforcement) Rules, 2002. In the present case, the respondent bank has written a letter for obtaining the consent from the borrower and in reply the borrower has not given consent for confirmation of the aforesaid auction sale. Further, the auction sale could not have been confirmed because of the reason that the Authorised Officer has not obtained a price higher than the reserve price and thus, there is no illegality or irregularity measures taken by the respondent bank by cancelling the auction sale conducted by the respondent bank qua the property in question as per the Rule 9 (2) of the Security Interest (Enforcement) Rules, 2002.

11. In view of the above facts and circumstances and SARFAESI Act and Rules, this Tribunal is of the view that the respondent bank has followed the mandatory procedures as laid down under the SARFAESI Act and Rules, while initiating measures for recovery of its dues, therefore, the SARFAESI Application is liable to be dismissed being devoid merits. However, the respondent bank is free to take afresh action by actioning the property in question by way of e-auction as per law so that the respondent bank can fetch more prices and the present securitization applicant is also at liberty to participate in the auction to be conducted by the respondent bank and the respondent bank shall also invite the present securitization

applicant to participate in the proposed auction to be conducted by the respondent bank qua the property in question. Further, since the auction purchaser has invested the money by depositing the auction amount with the respondent bank and such money has been retained by the respondent bank, therefore, it would be appropriate to direct the respondent bank to return the auction money, if not returned, alongwith interest @ FDR from the date of deposit till the date of release of the payment.

(ORDER)

The SARFAESI Application filed by the applicant stands dismissed along with pending applications, if any, and the respondent bank is at liberty to proceed further to recover its dues as per law. The respondent bank is hereby directed to return the auction money, if any, so deposited by the auction purchaser, to the auction purchaser within 30 days from today alongwith interest @ FDR from the date of deposit till the date of release of the payment. The present order be uploaded immediately on the website of this Tribunal.

Final Order signed, sealed, dated and pronounced in the open court on this 23rd April, 2026.

Dictated & Corrected by me.

23/04/2026

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(GOVIND BALLABH SHARMA)
PRESIDING OFFICER,
DRT-I, Delhi