

IN THE DEBTS RECOVERY TRIBUNAL, DEHRADUN

(2nd Floor, Paras Tower, Saharanpur Road, Mazra, Dehradun, Uttarakhand-248171)
(Jurisdiction- Uttarakhand & Part of Western Uttar Pradesh)

S.A. No.62 of 2023

Sh. Paras Kumar Sharma. Vs. Punjab National Bank & Ors.

DATED THIS THE 24th DAY OF JUNE, 2026

HON'BLE PRESIDING OFFICER: SH. UMESH KUMAR SHARMA

Between:

1. Sh. Paras Kumar Sharma, S/o. Sunil Kumar Sharma, R/o 1st Floor, Property at Khasra No. 99 and 100, Mauza Chriowali, Dehradun, Uttarakhand. AADHAR No:- 4091 2926 4180 PAN No:- BMRPS4914H

.....Applicant

Versus

1. Punjab National Bank, Head Office:- Plot No. 4, Sector 10, Dwarka, New Delhi.
2. Branch Office:- Astley Hall, Dehradun, Uttarakhand through its Authorized Officer
3. Sh. Sanjay Mittal, S/o. Sh T. D Mittal, R/o. 57 Dispensary Road, Dehradun, Uttarakhand
4. Sh. Chhaya Mittal, W/o Sh. Sanjay Mittal, R/o. 57 Dispensary Road, Dehradun, Uttarakhand
5. HDFC Ltd having Registered office at HDFC Bank House, Senapati Bapat Marg, Lower Parel, Mumbai 400013
6. Tata Capital Housing finance at 11th Floor Tower A, Peninsula Business Park Gonpat Rao, Kadam Marg, lower Parel Mumbai

.....Respondents

Sh. Nishant Chaturvedi, Ld. Counsel for Applicant

Sh. Anirudh Anand, Ld. Counsel for Respondent Bank/No.1 & 2

J U D G M E N T

(Date of Decision: 24.06.2026)

1. The Applicant has filed this instant Securitization Application on 17.03.2023 to quash entire action initiated by respondent bank under Section 13 of SARFAESI Act and to quash impugned order dated 07.01.2023 passed by District Magistrate Dehradun.



Sir,
Seen.
Dwivedi,
Council for Respondent
No 1

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2. It has been stated by the applicant that the applicant has been preferred this application against the illegal and arbitrary actions of the Respondent Bank in pursuing coercive measures under Section 13(4) of the SARFAESI Act, 2002 in terms of which the pre possession notice dated 07.01.2023.
3. It is further stated that the Respondent No. 3 and 4 is the main borrower and the mortgagor where in the property mortgaged is as mentioned in the Possession notice dated 23.09.2021 challenged herein:

Property Description:- at Khasra No. 99 and 100 Mauza chrowali, Pargana, Parwadoon, District Dehradun, Uttarakhand

4. It is stated that the Respondent Bank has failed to register the charge on the properties in CERSAI as provided Ch IV 26 (D) which read as under:

26D RIGHT OF ENFORCEMENT OF SECURITIES "Notwithstanding anything contained in any other law for the time being in force, from the date commencement or the provisions of this Chapter, no secured creditor shall be entitled to exercise the rights of enforcement of securities under Chapter III unless the security the security interest created in its favour by the borrower has been registered with the Central Registry."

5. The Applicant is not a borrower nor the mortgagor and the Applicant is the absolute owner of the property at First floor at Khasra No. 99 and 100, Mauza Chrowali, Pargana, Parwadoon, District Dehradun, Uttarakhand. The Respondent No. 3 by a registered gift deed dated 21.03.2016 registered in the office of Sub Registrar, Dehradun III, gifted a part of the said property (measuring about 188.03 sq mtrs) to his wife Smt. Chhaya Mittal (Respondent No. 4). That on the basis of the aforesaid Gift deed, named of Smt. Chhaya Mittal, was mutated in her name in the Record of Nagar Nigam Dehradun. That Smt. Chhaya Mittal (respondent no.4) moved an application for sanction of building plan before Mussorie Dehradun Development Authority for construction of building over Khasra No.99 and 100, Mouza Chirowali, Pargana Parwadoon, District Dehradun.

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The map so submitted was sanctioned by the Mussorie Development Authority and Smt. Chhaya Mittal constructed the flats over the property.(Annexure No. 1)

6. That Smt. Chhaya Mittal through a registered sale deed dated 09.07.2018 registered in the office of Sub Registrar Dehradun-III sold the super area measuring about 110.70 Sq.Mt. without right of roof to Applicant. In the said sale deed the Respondent no. 4 has stated that the property is free from any charge, mortgage, attachment and dispute and property free from all encumbrances. The Applicant purchased the said property after taking housing loan from Tata Capital Housing subsequently transferred to H.D.F.C. and since then the Applicant is enjoying the peaceful possession of the property. It is submitted that the property is under mortgage with HDFC Ltd. The photocopy of the sale deed is as Annexure No.2.
7. When the Applicant has applied for housing loan from Tata Capital then the NOC for the said property dated 04.07.2018 has been issued by the Respondent Bank to the Respondent No. 4. The photocopy of the NOC dated 04.07.2018 is marked as Annexure 10.
8. That the Applicant has duly informed to the Respondent bank wide letter dated 05.07.2018 NOC 04.07.2018 regarding issued to the Respondent No. 4 (Annexure No. 4)
9. The Applicant and their families are residing, from the date of purchase in the property. That all of sudden on 24.02.2023 the some officials of Respondent Bank came to the property in question and pasted the order dated 07.01.2023 and notice dated 18.10.2021, with letter dated 23-03-2023 from which the Applicant came to know that the property of Respondent No. 3 and 4 is mortgaged with Punjab National Bank before the registration of the sale deed and the Respondent no 3 and 4 have committed default in repayment of loan (Annexure No. 5)

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10. That this letter also contained the order dated 07.01.2023 passed by District Magistrate, Dehradun and the possession notice dated 18.10.2021. It is submitted that the said letter is addressed to respondent No. 3 and 4 and has not been addressed to present Applicant and by the said letter the Respondent no. 3 and 4 were directed to handover the physical possession of the property before 28.02.2023 along, otherwise the possession of the property will be recovered through Tehsildar on or after 02.03.2023.
11. That a notice dated 27.02.2023 (wrongly written as 27.2.2022) was also published in which the Respondent no. 3 were directed to handover the physical possession of the property. (Annexure No. 6)
12. That since the Applicant is bonafide purchaser of the property, therefore they moved 28.02.2023 before District Magistrate, Dehradun to withdraw the order dated 07.01.2023 and has further requested to realize the bank dues from the three vacant flats of the said building which are under the ownership of respondent no. 3 and 4 (Annexure No. 7)
13. That the Applicant has approached before the Hon'ble High Court of Uttarakhand Nanital WPMS 614 of 2023 Paras Kumar Sharma Vs District Magistrate Dehradun & Ors and the Hon'ble High court has passed an order dated 02.03.2023 and provide 3 weeks time to approach the Hon'ble DRT Dehradun under Section 17 of the SARFAESI Act 2002. (Annexure No. 8).
14. That it is submitted that on inquiry the Applicant have come to know that an amount of Rs.1,25,00,000/- outstanding against Respondent no 3 and 4 and the approx market value of three vacant flats are more than the dues of the Punjab National Bank. That it is submitted that the District Magistrate, Dehradun has committed manifest error of law in passing the order dated 07.01.2023 without any notice to the present Applicant who are in actual physical possession of the property. That it is submitted

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that the District Magistrate, Dehradun is under legal obligation to verify the nature of the property of which the possession is to be recovered. It is submitted that over the property for which the order dated 07.01.2023 has been passed is not described in the order itself and in fact much before passing in the same, shape as of the order the flats were constructed and was sold by the owner to the Applicant, in which the applicant and families are residing. It appears that the respondent bank has not disclosed the correct situation of the property in its affidavit submitted with application moved by the bank under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002.

15. It is submitted that the Bank is obliged to inform to the District Magistrate that in fact the property they want to recover by an order under Section 14 of the SARFAESI Act has actually been sold to different person by the borrowers. It is submitted that the District Magistrate, Dehradun before passing the order dated 07.01.2023 has not issued any notice to the Applicant nor any order has been passed against the Applicant and the order has been passed only against Respondent No. 3 and 4.
16. It is further submitted that the Applicant has purchased the property through registered sale deed and the Applicant who are not the borrower of Punjab National Bank cannot be evicted in the garb of order dated 07.01.2023 which was passed without any notice to the Applicant.
17. It is further submitted that if the Applicant will be dispossessed from their flats, they shall become homeless and will suffer irreparable loss and injury. In the present case no notice of any kind was given to the persons occupying the property through registered sale deed and in the garb of an order which was passed against the Applicant without hearing them, the valuable rights of the enjoyment of the property has been infringed.

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18. That it is submitted that the borrower at no point of time informed the Applicant that the property is mortgaged with the Punjab National Bank and on the contrary property is in the sale deed it has been stated that the property is free all encumbrances. The Respondent No. 3 & 4 has committed fraud upon the Applicants by not disclosing the factum of mortgage.
19. That it is submitted that the Applicant is having a valid title of the property and cannot be evicted from the property in the garb of order under Section 14 of the SARFAESI Act.
20. That in view of the facts and circumstances stated above the impugned action is unjust, illegal, arbitrary, thus liable to be quashed by this Tribunal. That the Applicant has no other efficacious alternative speedy remedy accepts to approach this Tribunal That being aggrieved, and having been left with no other equally efficacious legal remedy, the Applicant prefers this instant Securitization Application before this Tribunal, being the statutory remedy provided under Section 17 of the SARFEASI Act, 2002.
21. The Respondent Bank/Punjab National Bank has filed objection vide diary No.8831 dated 04.09.2023. It has been stated by respondent bank in para-3 that the present Securitization Application qua relief against the notice under Section 13(2) & 13(4) are time barred and the same has yet not been cured and the notice dated 07.01.2023 is an administrative order of the Ld. District Magistrate passed as per law. Further it is very important to mention here that the Hon'ble High Court has not extended the limitation as provided by the statue there present SA is barred by limitation. In para-6 the respondent bank has stated that the CERSAI certificate is attached with the reply which clearly reflects that since the beginning there is no other charge over the property except the respondent bank. And the CERSAI Certificate is clearly reflecting that the charge of the PNB was created in the year 2016. Annexre(CA-1)

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22. The respondent bank specifically denied issuance of any NOC in favour of Respondent No. 3 & 4. The respondent bank set up an inquiry and found that no such NOC exist on the file. It is further stated that the so called NOC is on the letter head of the Punjab National Bank, Retail Asset Processing Centre, 8 Astley Hall, Dehradun and the seal depicted on the same letter head is of Punjab National Bank, Paltan Bazar, there are two different branches and are not related with each other. At the last it is stated by the respondent bank that there is no substance of merit in any point raised in Securitization Application, the respondent bank through Authorized Officer has meticulously complied all mandatory provisions of SARFAESI Act, hence this Securitization Application be rejected.
23. The Respondent No. 6 has filed objection vide diary No.6931 dated 18.11.2024. It has been stated in Para-2 of the preliminary submission that the Applicant Sh. Paras Kumar Sharma along with Mrs. Honey Sharma approached the answering respondent with their personal and financial credentials for availing loan facility. Pursuant to representation made by the applicant, the respondent had sanctioned the Home Loan facility for Rs.48.00Lacs vide sanction letter dated 26.06.2018. The borrowers in order to secured the aforesaid finance agree to create charge in the nature of equitable mortgager over the property in question. In the year 2021 the loan account was terminated (Annexure R-3). Hence the present SA is not maintainable against the Respondent No. 6 as the loan facility is already been closed in the year 2021 and moreover Respondent No. 6 is neither a necessary party nor proper party.
24. Heard. Ld. Counsel for Applicant and Ld. Counsel for Respondent Bank/No.1 & 2. None present for other Respondent No. 3 to 6
25. The Applicant has approached this Tribunal against order passed by Ld. District Magistrate, Dehradun dated 23.01.2023 under Section 14 of SARFAESI Act in favour of Respondent No.1 & 2 Punjab National Bank by filing this Securitization Application on 17.03.2023.

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26. The Applicant has purchased the property in question from respondent No.4 through registered sale deed dated 09.07.2018 and also taken financial assistance from Respondent No. 6. The liability has been discharged by the applicant before 27.04.2021 as per Annexure R-3 submitted by Respondent No. 6 with objections filed by diary No. 6931 dated 18.11.2024.
27. The Applicant has purchased the said property on the basis of 'No objection' dated 04.07.2018 issued by Respondent No.2 in favour of Respondent No. 4, who has executed sale deed in relation to the property in question, which was provided by Respondent No. 4 to the Applicant and Applicant has submitted with petition as Annexure No. 3. The Applicant had also sent a letter to Respondent No. 2 on 05.07.2018 in relation to said 'NOC' and also mentioned about financial assistance from Tata Capital. The Applicant has submitted as Annexure No. 4 with postal registered receipt dated 05.07.2018 and as per applicant, no response was given by Respondent No. 2.
28. In reply of Respondent No. 1 & 2, the respondent bank has specifically denied about issuance of 'NOC' on the basis of enquiry report dated 11.08.2023 but nothing mentioned about date of set up enquiry and about inspection date on the part of concerned Ld. Chief Manager and also admitted in objection that no 'NOC' exist on the file, therefore, the NOC filed by the applicant with its application is forged and fabricated. It is mentioned in the said enquiry that no letter is held on record wherein Tata Capital or HDFC Bank wrote to the branch or bank regarding the veracity of the NOC issued even though letter was sent by applicant and nothing mentioned about the same.
29. Primarily, the respondent bank has filed caveat application No. 27 of 2023 by diary No.1745 dated 03.03.2023 against Respondent No. 3 & 4. The notices of caveat have been sent on 28.02.2023 to Respondent No. 3 & 4.

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30. The respondent Punjab National bank has issued notice under Section 13(2) of S.A.R.F.A.E.S.I. Act dated 16.06.2021 to Sh. Sanjay Mittal (Respondent No. 3) by showing date of NPA 01.04.2021 and claimed interest upto 30.04.2021, in the notice name of Respondent No. 4 has also been mentioned but nothing is clear whether sent to Respondent No. 4 Smt. Chhaya Mittal or not. A notice of symbolic possession dated 26.10.2021 has also been submitted with caveat but nothing submitted about proof of sending or service and not addressed to about proof of sending or service and not addressed Respondent No. 3 or 4, only mentioned the name and address of Respondent No. 3 & 4 in the body of the notice.
31. It is also pertinent to mention that the Respondent No. 2 has shown an amount of Rs.1,65,33,070/- (Rupees One Crore Sixty Five Lacs Thirty Three Thousand Seventy only) on the date of NPA against financial assistance of Rs.150.00Lacs and interest of one month was Rs.1,17,543/- (Rupees One Lacs Seventeen Thousand Five Hundred Forty Three only) from 01.04.2021 (date of NPA) to 30.04.2021. The situation has shown that the Respondent No. 3 & 4 account was not proper since long but the bank authorities have not taken action for a long time and the notice under Section 13(2) of S.A.R.F.A.E.S.I. Act was issued after two and half month from the date of NPA. The Applicant had discharged liability in the month of April 2021. The circumstances has shown different situation.
32. In this matter, one thing is also very interesting and surprising that in objections, the respondent bank has stated in Para 11 of the objections specifically 'That it is very important to mention here that the so called NOC is on the letter head of the Punjab National Bank, Retail Asset Processing Centre, 8 Astley Hall, Dehradun and the seal depicted on the same letter head is of Punjab National bank, Paltan Bazar, there are two different branches and are not related with each other. The objections were submitted on 04.09.2023. On the other hand, when an RTI under

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Right to Information Act 2005 has been moved by applicant before Ld. Central Information Officer, the Ld. Central Information Officer has provided information to the applicant by आर.टी.आई./प्रार्थना पत्र/72/2023-24 dated 22.09.2023 as under:

"Astley Hall, Dehradun में स्थित शाखा पंजाब नेशनल बैंक, शाखा पलटन बाजार के नाम से संचालित है जिसका IFSC कोड PUNB0011100 है और जिसका पता निम्नवत है:

ASHLEY HALL, PALTAN BAZAR, DEHRADUN, PIN-248001

And in relation to NOC stated as under:

"ऐसा कोई भी डाटा बैंक स्तर पर संरक्षित रखने का प्रावधान नहीं है।"

33. In objection the respondent bank has mentioned that no such NOC exist on the file and in enquiry report stated no proof on record is available of any competent authority having authorized the partial release of charge on the said property further, no proof of the letter having being issued is also held on record. The reply of respondent bank in RTI in relation to the version of bank branch and 'NOC' is different submitted by applicant as Annexure-5 with affidavit submitted by applicant on record by diary No.897 dated 08.02.2024.
34. The enquiry has been made by Ld. Chief Manager/authorized Officer, who has submitted counter affidavit, nothing clarified about date of institution of enquiry and who has instituted the said enquiry. The version in relation to bank branch is also contradictory. In objection, it is tried that the 'NOC' is issued by different branch and stamp is of different branch but as per RTI both are same branch, no two different branches. The said situation has created doubt in relation to version of respondent bank mentioned in objections.
35. The 'NOC' was issued by Manager and specifically mentioned as under:
Ref No. NC11123 EMII/28 dated 04.07.2018
Chhauyal Mittal W/o Sanjay Mittal, Dehradun
Madam/Sir,

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With reference to your letter dated 29.06.2018 regarding no objection certificate, in this connection, we hereby grant the permission for the sale of the flat on first floor of the property mentioned below:

All that property forming part of Khata No.75(Fasli year 1416-1421) Khasra No.99 & 100(Society Plot No. 15) situated at Mauza chidowali pargana parwadoon, measuring 118.03 sq. mtrs. Dehradun.

This certificate being issued on the specific request of above mentioned customer

Manager
Bank stamp

signature illegible

36. There is a vast difference in version mentioned in objections including enquiry report and version provided by the bank through RTI to the applicant in relation to bank branches and NOC also. There was no partial release, there was specific permission for sale. The version of RTI has not been rebutted by respondent bank.
37. The bank branches are different as per objection but as per RTI both are same bank branch (one branch). As per RTI there is no provision to keep the record like that but in enquiry mentioned no proof on record is available and also in objection about said 'NOC' even though, the document itself speaks that there is a permission of sale not 'NOC'
38. It is clear from the above, the bank authorities are totally free to adopt any conduct and also free to say any version at any time and also to do, as they want as per their easiness and for creating favourable situation for themselves in person not for the institution. They are not responsible for their actions and conduct, the others even strangers without any fault on their part are responsible to bear the burden of the actions taken by bank authorities time to time.
39. It is very stringent that a Ld. Authorized Officer/Chief Manager has no hesitation to show that the branches of the bank are different in relation to the same bank branch by playing a game of words before semi-judicial

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authority on oath and also stated differently, in relation to 'NOC' and letter sent by applicant.

40. The situation has shown that there is no control of higher authorities and the officers upto the rank of Ld. Chief Manager can do or state anything in their personal protection even though a loss has been caused to the institution. This is a financial institution and nationalized bank of public sector. The action and conduct adopted by concerned bank Manager/Chief Manager is not appreciable or acceptable as per circumstances of this matter.
41. The bank authorities concerned are responsible for loss to the bank. It cannot be declined prima facie that there was no collusion/nexus between the bank officers concerned and the original borrower on the basis of record available on file.
42. The whole of the situation produced on the part of respondent bank and applicant has shown that there is no any fault on the part of applicant and respondent bank has failed to prove that the respondent bank is entitled to recover the borrowed money in question through SARFAESI action in relation to property in question and applicant is entitled for relief claimed against the respondent bank.
43. In the light of above discussions, the Securitization Application is liable to be allowed. Hence allowed.

Interim order, if any vacated. All Interim Applications are disposed off in the light of above.

Record be consigned.

Dated: 24.06.2026


(Umesh Kumar Sharma)
Presiding Officer
DRT, Dehradun