DEBTS RECOVERY TRIBUNAL-III, CHANDIGARH

PRESIDED OVER: SH. MRIDULESH KUMAR SINGH

APPEAL NO.2/2025

Date of Institution: 03.03.2025
Date of Decision: 28.07.2026

State Bank of India a body corporate constituted under the provisions of The State Bank of India, 1955 (23 of 1955), having its Corporate Office at Madame Cama Road, Nariman Point, Mumbai (Maharashtra) 400021, carrying on its Business of Banking in India and Abroad having one of its Local Head Office at Sector-17, Chandigarh and one of the Specialized Branch known as Stressed Assets Management Branch at Fountain Chowk, Civil Lines, Ludhiana-141001 (Punjab) through its Assistant General Manager, Sh. Virender K. Karwal

---Appellant

Versus

1. Smt. Prem Lata W/o Sh. Sham Sunder, R/o House No.1924/31, Street No.01, Gandhi Nagar, Ludhiana-141008 (Punjab)
2. Kuber (India) Sales Pvt. Ltd. situated at Kuber House, G.T. Road, Near Airport, Ludhiana-141120 (Punjab) through its Director
3. Sh. Rohit Kapoor S/o Sh. Joginder Pal Kapoor, R/o 56-J, Sarabha Nagar, Ludhiana-141001 (Punjab)
4. Ms. Kuku Kapoor W/o Sh. Joginder Pal Kapoor, R/o 56-J, Sarabha Nagar, Ludhiana-141001 (Punjab)
5. Ms. Aarti Kapoor W/o Sh. Rohit Kapoor, R/o 56-J, Sarabha Nagar, Ludhiana-141001 (Punjab)

---Respondents

Argued by: Sh. Vivek Verma, Advocate for Appellant
Sh. Harinder Pal Singh, Advocate for Respondent No.1
Respondent Nos. 2 to 5 already ex parte vide order dated 14.11.2025

FINAL ORDER

(1) This Appeal was filed under Section 30 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 to set aside impugned order dated 12.02.2025 passed by Recovery Officer-I, DRT-

III, Chandigarh along with all other subsequent proceedings and also set aside order passed on IA No. 164/2024 with a prayer to take on record the subsequent development came into notice after the sale conducted necessitating cancellation thereof, further prayer for order of refund of the amounts paid by the Auction Purchaser and directing him/her to surrender the 'Sale Certificate' may kindly be ordered to be allowed.

(2) It was stated in the Appeal that appellant is aggrieved by the order dated 12.02.2025 passed by Recovery Officer-I in RC No.169/2019 vide which IA No.164/2024 filed by CH Bank with a prayer to cancel the auction dated 31.05.2024 was dismissed by the Recovery Officer, illegally in contravention of procedure enumerated in the I.T. Act, IInd Schedule (Procedure for Recovery of Tax) as the Recovery Officer has failed to consider the prayer of the appellant; that CH Bank had filed OA No.4948/2017 (Old No.1049/2016) against Kuber (India) Sales Pvt. Ltd. & 03 Others for recovery of Rs.18,57,32,716/- as on 26.04.2016; that OA was allowed by Hon'ble Presiding Officer, DRT-III, Chandigarh for recovery of Rs.18,57,32,716/- along with simple interest @17% in both accounts from 26.04.2016 till the date of realization along with cost of Rs.2,06,555/-; that CH Bank already sold the mortgaged property and in order to recover the balance dues of the Bank, which were Rs.30,86,44,469.22p as on 31.03.2023, the CH Bank filed application for attachment of property measuring 07 Biswa 16 Biswasi, situated at Village Barewale Awana, District Ludhiana owned by Smt. Arti Kapoor (CD No.4) and Smt. Kuku Kapoor (CD No.3), on the basis of detective agency report dated 08.02.2023 submitted by Lancers Network Limited; that CH Bank also got the title verification of the said property from its Advocate Sh. Baljit Sharma; that vide order dated 17.11.2023, the property was ordered to be attached and it was ordered by the Learned Recovery Officer to issue warrant of attachment; that vide order dated 21.12.2023 and 18.01.2024, the CH Bank was directed to file Service Report of Warrant of Attachment and also directed to file fresh POR with fresh Valuation; that accordingly,

Warrant of Attachment dated 23.01.2024 was issued by Recovery Officer for property measuring 07 Biswa 16 Biswasi, situated at Village Barewale Awana, District Ludhiana owned by Smt. Arti Kapoor (CD No.4) and Smt. Kuku Kapoor (CD No.3); that the CH Bank filed POR dated 22.02.2024 by way of Affidavit of Sh. Sumit Chawla, Chief Manager of CH Bank for the above said property; that CH Bank also submitted the copy of Valuation Report dated 30.08.2023 prepared by Sh. Hanish Gupta Government approved valuer of Design 'N' FAB for the property measuring 7 Biswa (350 sq. yards); that as per the Valuation Report dated 30.08.2023 which is part of the record of the RC, the valuer assessed the market value of the property measuring 7 Biswa (350 sq. yards) as Rs.59,50,000/- and realizable value as Rs.50,57,000/- and Distress value as Rs.41,65,000/-; that the valuer has ascertained the value of the property measuring 7 Biswa by calculating the 1 Biswa as 50 sq. yards; that accordingly, POR submitted by the Bank was related to only seven Biswa that too only 350 sq. yards; that Recovery Officer vide order dated 10.04.2024 put the property measuring 7 Biswa 16 Biswasi for sale by fixing the reserve price as Rs.50,60,000/-, whereas as per the Valuation Report dated 30.08.2023, the Valuer has assessed the value of the property measuring 7 Biswa only by calculating the 1 Biswa of 50 sq. yards each; that accordingly, POS dated 10.04.2024 was issued by the Recovery Officer and fixed the date of auction as 31.05.2024, on the basis of order dated 10.04.2024 for the property measuring 7 Biswa 16 Biswasi, whereas he was required to issue the POS by mentioning the detail of property as 7 Biswa, whereas he was required to issue the POS by mentioning the detail of property as 7 Biswa (350 sq. yards) as detailed in the Valuation Report dated 30.08.2023; that auction of the property was held on 31.05.2024 and respondent No.1 Smt. Prem Lata was declared as highest bidder as she gave the highest bid of Rs.86,10,000/- against the reserve price of Rs.50,60,000/-; that CH Bank submitted the auction report and also maintained the inadvertent mistake in the auction report by mentioning the detail of the auction property was 7 Biswa 16 Biswansi, whereas actual property was to be sold as 7 Biswa (350 sq. yards) as detailed in the valuation report dated 30.08.2023; that neither the Recovery Officer nor the CH Bank realized the inadvertent mistake in selling the attached property; that vide order dated 08.07.2024, auction dated 31.05.2024 was ordered to be confirmed in favour of respondent No.1 for the description of the property mentioned in the POS and the CH Bank was directed to hand over the physical possession of the auction property to Auction Purchaser i.e., respondent No.1; that on 05.08.2024, recovery case was adjourned to 23.08.2024 on the request of learned counsel for CH Bank; that thereafter, Auction Purchaser met the Officers of the Bank for the purpose of compliance of order dated 08.07.2024; that the Officer of the CH Bank checked the record of the Bank and realized the inadvertent mistake in the auctioning of the property as the property, which was required to be put to sale was measuring 7 Biswa (350 sq. yard only), whereas the Auction Purchaser was claiming the possession of the property measuring 7 Biswa 16 Biswansi (1179.36 sq. yards calculated as 1 Biswa=151.20 sq. yards and 16 Biswansi as 7.56 sq. yards); that there was no intention of the CH Bank to sell the property measuring 1179.36 sq. yards (7 Biswa 16 Biswansi) and accordingly, the prayer of the Auction Purchaser was not accepted by the Officers of the CH Bank and further requested him to wait to check the record of the Bank to proceed further in the matter; that everything with regard to inadvertent mistake was explained to the purchaser but she was not ready to listen anything and further forced to the Officer of CH Bank to comply with the order in any manner and further threatened with dire consequences; that learned counsel for Auction Purchaser knowing fully well the inadvertent mistake and without waiting for the next date of hearing, cleverly showing an innocent, filed IA No. 161/2024 dated 10.08.2024 for the preponement of date of hearing and also filed IA No. 160/2024 for appointment of Local Commissioner for getting the registry done in favour of the Auction Purchaser and handing over the physical possession; that IAs filed by the leaned counsel for Auction Purchaser were taken up by the Recovery Officer and in the recovery case, it was ordered that the IAs were to be heard on 23.08.2024; that CH Bank realizing its inadvertent mistake in putting the property for auction with wrong description, filed an IA No. 164/2024 dated 15.08.2024 with a prayer to take on record the subsequent development came into notice after the sale conducted necessitating cancellation thereof, further prayed for order of refund of the amounts paid by the Auction Purchaser and directing him/her to surrender the 'Sale Certificate', in view of peculiar facts and circumstances as explained in the IA; that it was further prayed in the said IA that an interim order restraining alienation by the Auction Purchaser and/or anyone claiming any right from the Auction Purchaser in respect of the said property sold, be also passed; that CH Bank also filed affidavits dated 30.08.2024 and 03.10.2024 in order to support their contentions; that CH Bank filed another Original Application No.4014/2017 (Old OA No.1056/2016) against sister concern of CDs namely M/s Agartala Rubber Industry & 04 others including same set of CDs for recovery of Rs.19,49,07,353.48p as on 21.04.2016; that the said OA was allowed by the Hon'ble Presiding Officer, DRT-III, Chandigarh for recovery of Rs.19,49,07,353.48p along with simple interest @12% in both accounts from 21.04.2016 till the date of realization along with cost of Rs.2,08,500/-; that in order to secure the dues of Bank the CDs in the account of M/s Agartala Rubber Industry & 04 others have mortgaged Residential vacant plot measuring 600 sq. yards situated at Amrit Colony, Near Punchshil Vihar, Magnet Resort Road, Barewal Awana, Ferozepur Road, Ludhiana in the name of Smt. Kuku Kapoor W/o Sh. Joginder Pal Kapoor by deposit of original title deed No.16865 dated 01.02.2012; that in order to recover the dues in RC No.1585/2018 titled as SBI Vs. M/s Agartala Rubber Industry & Others, the Recovery Officer put the said property for auction vide order dated 18.01.2022 and 30.03.2022 and fixed the date of auction as 23.03.2022 and 25.05.2022 at the Reserve Price of said mortgaged Plot measuring 600 sq. yards as Rs.87 Lacs; that the above stated property (600 sq.

yards), which was already under mortgage with the State Bank of India, SAMB Branch was also part of the attachment order sought by CH Bank on the basis of detective agency report dated 08.02.2023 for the property measuring 7 Biswa 16 Biswansi, situated at Village Barewal Awana, Hadbast No.157, Tehsil and District Ludhiana in the name of Smt. Kuku Kapoor W/o Sh. Joginder Pal Kapoor and Smt. Arti Kapoor W/o Sh. Rohit Kapoor; that however, this could not came in the notice of CH Bank before the order of attachment because Bank's lien over aforesaid property has not been noted in revenue record being an Equitable Mortgage created by deposit of Title Deed; that since the said omission has came to the notice of the CH Bank, accordingly IA No. 164/2024 dated 15.08.2024 with a prayer to take on record the subsequent development came into notice after the sale conducted necessitating cancellation thereof, further prayed for order of refund of the amounts paid by the Auction Purchaser and directing him/her to surrender the 'Sale Certificate', in view of peculiar facts and circumstances as explained in the IA; that there is huge difference in arriving at the value determined by the valuer and as such it will cause great financial loss to the CH Bank in case the auction process is not cancelled as the property which had been fixed to auction at reserve price of Rs.50,60,000/- or even the highest bid of Rs.86 Lacs, in fact is having worth more than that, as per fresh valuations submitted by valuers attached with IA No. 164/2024 dated 15.08.2024; that Recovery Officer, without considering the actual prayer of the appellant dismissed the IA filed by CH Bank in haste manner vide impugned order dated 12.02.2025; that Recovery Officer did not consider the simple prayer of the appellant to take on record the subsequent development came into notice after the sale conducted necessitating cancellation. Therefore, the present Appeal was filed by the CH Bank against the impugned order dated 12.02.2025 passed by Recovery Officer and prayed that in interest of justice, the same may kindly be allowed.

(3) Reply filed by Respondent No.1.

(4) It was stated in the reply that on 19.04.2023, application for attachment was filed by bank in respect of property measuring 7 Bigha 18 Biswansi (1180 sq. yards); that in that application, there was no mention of concocted story regarding part of property being mortgaged in some other case; that now the counsel for bank has cleverly tried to twist the facts for the reasons best known to him; that the POR and valuation was filed on 29.02.2024 and auction was fixed on 31.05.2024 for reserve price of Rs.50,60,000 by Recovery Officer on request of CH Bank as per the valuation filed by Bank; that on 31.05.2024, respondent No.1 was gave a bid of Rs.86,10,000/- and declared the successful bidder in the open auction; thereafter, on 11.06.2024, Mr. Dinesh Sharma, sent the whatsapp message to husband of auction purchaser for meeting him; that thereafter, Mr. Dinesh Sharma visited the jewellery shop of Auction Purchaser's husband and submitted that Recovery Officer confirmed the sale and issued sale certificate on 05.07.2024 and further directed the bank to handover the physical possession and get the sale certificate registered; that Auction Purchaser met Mr. Dinesh Sharma, CCO of CH Bank on 06.07.2024 regarding compliance of order dated 05.07.2024 and he hold that Mr. Sumit Chawla has joined in another branch and now first he will get the orders from DRT modified in his name for the compliance; that later when auction purchaser met him in Bank premises alongwith her husband, Mr. Dinesh Sharma specifically stated that he has spoken with Recovery Officer Sh. Shashi Kant for the purpose but Recovery Officer is asking for bribe of Rs. 01 Lacs as Auction Purchaser has purchased the property at very less price; that applicant immediately refused to pay the bribe and left; that thereafter auction purchaser contacted an Advocate in DRT and filed the application for the appointment of Local Commissioner on 11.08.2024; that on 11.08.2024 in the evening, Mr. Dinesh Sharma sent the whatsapp message to husband of auction purchaser for meeting him at 6 PM and thereafter met out side the bank and told that as bribe money has not been paid so now Recovery Officer has asked him to file application for cancellation of sale

held on 31.05.2024; that on 11.08.2024, applicant has filed the application and on the same day Mr. Dinesh messaged and conveyed the demand of Recovery Officer Sh. Shashi Kant, which shows that they are hand in glove with each other; that Recovery Officer at the time of arguments asked to show the whatsapp message sent by Mr. Dinesh Sharma; that as there was security code installed by Mr. Dinesh Sharma so the messages were deleted automatically after 24 hours so the auction purchaser has specifically requested the Recovery Officer to sent the mobiles of both parties (husband of auction purchaser as well as Sh. Dinesh Sharma) to CFSL; that on 23.08.2024, the CH Bank filed the application for cancellation of sale on the grounds of wrong valuation given by valuer earlier; that however no action has been initiated to de-panel the vendor, who has filed the wrong valuation; that moreover, Bank Official is duty bound to check the valuation before filing the same in Court; that Bank has mentioned in its valuation also about the rate of the property as Rs.5000/- per sq. yards; that the auction purchaser has got the latest value of the property in question from the concerned Tehsildar, who has given his report by assessing the price of property as Rs.59,04,800/-; that Bank has fixed reserve price of Rs.50,60,000/- and the auction purchaser has purchased this property at the highest bid of Rs.86,10,000/-; that auction purchaser wants to get the Registry done in his favour as the property has been purchased in open public auction; that the sole motive of the bank is to save its corrupt official Mr. Dinesh Sharma, who has sought bribe on behalf of Recovery Officer Sh. Shashi Kant; that it is therefore requested that this Appeal may kindly be dismissed with cost and any independent Local Commissioner be appointed by the Tribunal for getting the Registry done in favour of the auction purchaser and for handing over the vacant possession of the scheduled property.

(5) After service of notices upon respondent Nos. 2 to 5, no one has appeared on their behalf and no reply to Appeal was filed by them. Respondent Nos. 2 to 5 were proceeded ex parte vide order dated 14.11.2025.

(6) No replication was filed by appellant to the reply filed by respondent No.1.

(7) I have heard arguments advanced by Sh. Vivek Verma, Advocate for Appellant and Sh. Harinder Pal Singh, Advocate for Respondent No.1 and gone through the record carefully. None was present on behalf of respondent Nos. 2 to 5.

(8) Sh. Vivek Verma, Advocate argued that the subject property, measuring 350 sq. yards (7 Biswa) was wrongly mentioned in the Sale notice as 7 Biswa 16 Biswansi, which was measuring 1179.36 sq. yards as per Detective Report including 600 sq. yards already mortgaged property, leading to an inadvertent discrepancy in the auction process. It was further argued that as per Valuation Report dated 30.08.2023, the property intended to be auctioned measured only 350 sq. yards (7 Biswa) but the Auction Purchaser is now claiming possession of 1179.36 sq. yards (7 Biswa 16 Biswansi). It was further argued that therefore, appellant had filed IA No. 164/2024 on 15.08.2024 before Recovery Officer praying for cancellation of the sale, refund of the amounts paid by the Auction Purchaser and surrender the Sale Certificate but Recovery Officer vide its order dated 12.02.2025 has erroneously declined the prayer made in the application.

(9) *Per contra*, Sh. Harinder Pal Singh, Advocate argued that order dated 12.02.2025 was passed by Recovery Officer with due application of mind and there is no illegality in it. It was further argued that the property was auctioned as per sale notice and as per the valuation report, which was produced by Bank itself. Therefore, the concocted story made by CH Bank after passing the order has no relevance and this Appeal may kindly be dismissed.

(10) Copy of impugned order passed by Ld. Recovery Officer-I dated 12.02.2025 is on record as Annexure A-28 which shows that the prayer made in IA no. 164/2024 by CH Bank was disallowed on the ground that Recovery Officer has no power to cancel the auction sale since sale has been confirmed and sale certificate has already been issued. It was also mentioned in the order that property in question was

attached and sold in public auction through competitive bidding process and it appears no evidence of deficiencies in the process of attachment and sale of the auctioned property.

(11) Relevant portion of the said order dated 12.02.2025 is as under:

"3. Since, the property was placed on public auction on 'as is where is basis' and three bidders have participated in the public auction. Smt. Prem Lata w/o Sh. Sham Sunder has offered the bid of Rs.86,10,000/- and emerged as H1 bidder, whereas the other intending bidder didn't show interest in bidding for an amount equal or greater than H1 bidder. The construes the meaning that the value of the auctioned property is not more than the amount for which it has been sold in public auction. Further, this forum has no authority to cancel the auction sale, once the sale has been confirmed and sale certificate has already been issued. In light of the facts stated above, this forum is not convinced with the argument of the CH Bank, as it doesn't withstand on the touchstone of fairness and parity.

Accordingly, the objection filed by CH Bank in IA No.164/2024 is dismissed and disposed of."

(12) It is admitted fact that property measuring 7 Biswa 16 Biswansi was mortgaged with the CH Bank. It is also admitted fact that CH Bank had placed Valuation Report dated 30.08.2023 prepared from its valuer namely Sh. Hanish Gupta and as per said valuation report, valuer has calculated the land measuring 7 Biswa=350 Sq. Yards i.e., 1 Biswa=50 Sq. Yards (per sq. yards * Rs.17,000/-). Copy of said valuation report dated 30.08.2023 is annexed along with appeal as Annexure A-9 and as per that valuation report, property was put to auction at Reserve Price of Rs.50.60 Lacs.

(13) Copy of Letter dated 06.03.1986 issued by Chief Town Planner Punjab is also on record as Annexure A-29 regarding adoption of Matric Scales for Preparation of Plans and in the said letter it was mentioned that in the area of Ludhiana, Districts one Biswa is equivalent to 151.25 sq. yards and in the area of Districts of Ferozepur and Ropar etc., one Biswa is

equivalent to 50.41 sq. yards. It is admitted fact that mortgaged property is situated at District Ludhiana.

(14) In the order dated 12.02.2025 (annexure A-28) passed by Recovery Officer-I it was mentioned that:

"7. That however when at the time of handing over possession, it came to the notice of the CH that the description of the property has been wrongly calculated by the said valuer in his report dated 30.08.2023 wherein inadvertently 1 Biswa has been considered to be equivalent to 50 Sq. Yds. Whereas in Punjab 1 Biswa is equivalent to 151.20 Sq. Yds. and as such the land auctioned measuring 7 Biswa 16 Biswansi comes out to be 1179.36 Sq. Yds. (Approx.) whereas inadvertently valuer has calculated the land considering 1 Biswa = 50 Sq. Yds. and thus has arrived at the total land measuring 7 Biswa equivalent to 350 Sq. Yds. The valuer has calculated the land at the rate of Rs. 17000/- per sq.yds and as such the land is worth about Rs.17000/- per Sq. Yds. (x) 1179.36 Sq. Yds = Rs.2,00,49,120/- or 2,00,49,000/- whereas the land had been evaluated only at Rs.59.50 Lacs considering market value owing to inadvertent omission while calculating the correct area by the valuer."

(15) It further reveals from the said order that valuer has accepted his mistake and affidavit dated 13.08.2024 to the effect alongwith supplementary revised report dated 03.08.2024 was filed during the recovery proceedings.

(16) Since CH Bank has admitted its mistake and affidavit to the effect was also filed, therefore it appears that due to inadvertence the valuer had calculated the area of property on the basis of property situated at another Districts.

(17) Above all facts shows that due to inadvertent mistake on the part of CH Bank and without appreciating the correct measurement by Recovery Officer concerned the excess property (area) was sold than the property (area) which was valued. The error of valuer cannot be said as mala fide rather the same was inadvertent mistake because in the state of Punjab 1 Biswa land is equal to different sq. yds.

(18) There is no force in the arguments of learned counsel for respondent No. 1 who has opposed the appeal without any legs.

(19) Measuring the property in question on wrong scale is inherent defect in the sale process, therefore the sale process is liable to be set aside and accordingly present impugned order dated 12.02.2025 passed by Recovery Officer concerned is also liable to be allowed.

(20) **Appeal No.2/2025 is allowed.** Impugned order dated 12.02.2025 rejecting IA No. 164/2024 passed by Recovery Officer-I is hereby quashed and the said IA is stands allowed as well as sale of the property in question conducted on 31.05.2024 is cancelled. CH Bank is directed to refund total amount deposited by the auction purchaser along with 6% interest to be calculated from the date of its deposit within 30 days.

(21) This Recovery Certificate i.e., RC NO.169/2019 is pending since year 2019 and Hon'ble DRAT, Delhi has issued directions in light of the judgement passed by Hon'ble Supreme Court that the Recovery Certificates must be decided within 6 months. The said order was already communicated to both Recovery Officers of this Tribunal for its compliance. Therefore, Recovery Officer-I is requested to decide the case expeditiously.

Let a copy of this order be sent to Recovery Officer-I for information and compliance.

Record be consigned to record room after due compliance.

Date: 28.07.2026

Pronounced by me in the open Tribunal.

(MRIDULESH KUMAR SINGH)
Presiding Officer,
DRT-III, Chandigarh