DEBTS RECOVERY TRIBUNAL No.2, MUMBAI

PRESIDING OFFICER: HARISH KUMAR KAUSHIK

SECURITISATION APPLICATION NO.267 OF 2025

Date of Institution: 21.04.2025
Date of Decision: 31.07.2026

1. M/s D Corp Agro Foods Private Limited, having its registered office at Plot No.60D and F, 2nd Floor, Dulbha Prasad, Sadanand Mohan Jadhav Marg, Naigaon Road No.2, Morbaug, Dadar (East), Mumbai - 400 014, and also at Gut Nos.376 and 374, Village Palsai, Taluka Wada, District Palghar
2. Mr Gajanan Ramakant Desai, Director of Applicant No.1, residing at Plot No.60D and F, 2nd Floor, Dulbha Prasad, Sadanand Mohan Jadhav Marg, Naigaon Road No.2, Morbaug, Dadar (East), Mumbai - 400 014. ... Applicants

Versus

1. Bank of Baroda, Chandavarkar Road Branch, 309, Chandavarkar Road (C.R.), Mumbai - 400 019, through its Authorised Officer.
2. Mr Durgesh Gajanan Desai, Director of M/s D Corp Agro Foods Private Limited, Mumbai.
3. Mrs Udita Gajanan Desai, Director/guarantor of M/s D Corp

Agro Foods Private Limited, Mumbai.

4. M/s Raghbir Infrainteriors LLP, Gala No.1, Fazal Compound, Singh Estate, Road No.4, Kandivali (East), Opposite Thakur College, Mumbai - 400 101. ...Respondents

APPEARANCES

For the Applicant	:	Mr. Ajit Kochrekar – Advocate
For Respondent No.1	:	Ms. Vinaya Chavan i/b Mrs. Rathina Marvaraman - Advocate
For Respondent No.2, 3 & 4	:	None

Final Order

(1) The present Securitisation Application No.267 of 2025 is filed under Section 17 of the SARFAESI Act, 2002 challenging the measures taken by the Respondent No.1 under the provisions of the SARFAESI Act, 2002.

(2) The Applicant has questioned, inter alia, the classification of the loan account as a Non-Performing Asset (NPA), the Demand Notice dated 11.03.2022 issued under Section 13(2) of the SARFAESI Act, 2002, the subsequent measures adopted under Section 13(4), the proceedings initiated under Section 14 of the Act and the subsequent steps taken by the Respondent No.1 towards sale of the secured asset.

Factual matrix of the case:

(3) That the Applicant No.1 is the borrower company and Applicant No.2 is its Director and guarantor. Respondent No.1 is the secured creditor. Respondent Nos.2 and 3 are co-obligants. Respondent No.4 is the auction purchaser. The secured asset is the industrial property comprising land bearing Gut Nos.374 and 376, aggregating to 8,600 square metres, together with the factory construction, plant and machinery at Village Palsai, Taluka Wada, District Palghar.

(4) The Applicant claims ownership rights in the subject property, whereas the Respondent No.1 claims security interest therein pursuant to the financial assistance extended to the Applicant. The loan amounting to Rs 10.45 crore was sanctioned in the year 2017. A registered mortgage was created on 04.01.2018. The facilities were thereafter restructured by sanction dated 26.03.2021 for approximately Rs.10.13 crore.

(5) According to the Bank, it was classified as a non-performing asset on 28.02.2022. The Applicants have alleged that the Bank treated the account as non-performing with effect from 26.03.2021 and have relied upon an NPA certificate dated 27.04.2023. On 11.03.2022, the Bank issued a Demand Notice under Section 13(2) calling upon the borrowers to pay Rs.9,54,37,829.39.

(6) On 07.11.2022, physical possession of the Wada industrial property was voluntarily handed over to the Authorised Officer of the Respondent Bank. A panchnama and inventory were prepared. The property remained in the possession of the Bank. The Applicants did not obtain any order setting aside that possession measure.

(7) The Bank states that a valuation of the Wada property was obtained from approved valuers on 31.12.2024 and that the reserve price was fixed on that basis.

(8) On 12.02.2025 and 14.02.2025, Applicant No.2 addressed emails to the Respondent Bank stating that a prospective purchaser was willing to buy the Wada property for Rs.9 crore and seeking inspection of the property. The material does not contain a signed offer by that purchaser, proof of funds, earnest money or an unconditional undertaking capable of acceptance.

(9) The e-auction was conducted on 18.02.2025 for the Wada property. Respondent No.4 was declared the highest bidder for Rs.3.14 crore. The Bank's letter communicating the successful bid required payment of the balance and expressly referred to the terms of the e-auction notice dated 30.01.2025. Upon payment of the consideration, the Bank issued the Sale Certificate on 06.03.2025. A

possession receipt and the registered transfer documents followed on 07.03.2025.

(10) Aggrieved by the aforesaid measures, including the earlier measures adopted under the SARFAESI Act, 2002 and the subsequent steps taken towards sale of the secured asset, the Applicant has filed the present Securitisation Application under Section 17 of the SARFAESI Act, 2002.

Case of the Applicants:

(11) The Applicant has challenged the measures initiated by Respondent No.1 under the provisions of the SARFAESI Act, 2002 primarily on the ground that the very foundation of the recovery proceedings is illegal and consequently every subsequent measure adopted by the secured creditor is liable to be set aside.

(12) That Applicant No.1 was granted credit facilities in the year 2017 and that the account was subsequently restructured on 26.03.2021. According to them, the Respondent Bank did not apply the RBI circulars and prudential norms correctly while treating the account as a non performing asset. They challenge the NPA Certificate issued on 27.04.2023, which records that the account had been classified as NPA on 28.02.2022 and that the classification was reckoned from the date of restructuring i.e. 26.03.2021.

(13) That the Demand Notice dated 11.03.2022 is contrary to Section 13 of the SARFAESI Act, 2002. The Applicants submit that their representation and objections were not considered and answered in accordance with Section 13(3A) of the SARFAESI Act, 2002. According to them, the Bank therefore could not proceed to take measures under Section 13(4) or invoke Section 14 of the SARFAESI Act, 2002.

(14) That the Applicants do not dispute the handing over of possession of the Wada property to the Authorised Officer of the Respondent Bank on 07.11.2022. Their case, however, is that the Bank, after taking control of the factory land, building, plant and machinery, was under an obligation to preserve the secured assets, obtain a fair valuation and adopt a transparent process capable of fetching the maximum possible price.

(15) That the value of the factory land, building, plant, machinery, electrical equipment and furniture as reflected in the books of Applicant No.1 on 31.03.2022 was Rs.9,12,73,330/-. According to them, the reserve price fixed by the Bank and the ultimate sale consideration of Rs.3.14 crore is unreasonable and has been undervalued by the Respondent Bank.

(16) That reliance is placed upon the emails dated 12.02.2025 and 14.02.2025 by which Applicant

No.2 informed the Bank that a prospective purchaser engaged in cashew processing was willing to purchase the Wada property for Rs.9 crore. The Applicants submit that they sought inspection for the proposed purchaser before the auction, but the Bank neither facilitated an effective inspection nor responded to the proposal. They further rely upon the emails dated 28.02.2025 and 05.03.2025 seeking the result and details of the auction.

(17) That the Respondent Bank deliberately ignored the proposed consideration of Rs.9 crore and proceeded to sell the secured asset to Respondent No.4 for Rs.3.14 crore. They allege that the valuation was artificially reduced and that the conduct of the Bank and the auction purchaser gives rise to an inference of collusion, mala fides and fraud. It is submitted that a secured creditor dealing with public money cannot dispose of a valuable industrial asset in an arbitrary manner merely for the purpose of completing recovery proceedings.

(18) That the Applicants further contend that the Bank did not furnish the sale notice, valuation reports, auction proceedings, details of the successful bidder, Sale Certificate and other sale documents despite repeated requests. They state that the completed sale and its particulars became known during the proceedings before the Hon'ble High

Court and that the relevant documents were ultimately received with the Bank's reply in May 2025. The auction purchaser was thereafter impleaded in the Securitisation Application.

(19) That the Applicants allege non-compliance with Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002. They rely upon **CELIR LLP v. Bafna Motors (Mumbai) Private Limited** *MANU/SC/1042/2023 : 2023 INSC 838 : (2024) 2 SCC 1* and submit that strict observance of the statutory procedure is indispensable before the borrower's right in the secured asset can be extinguished. According to them, the sale held on 18.02.2025 and all consequential steps taken by the Respondent Bank are liable to be set aside.

(20) That the Applicants have also placed reliance upon their valuation report dated 08.08.2025, based upon inspection dated 07.08.2025. The report assesses the market value of the land and building at Rs.12.12 crore, the realisable value at Rs.10.908 crore and the distress value at Rs.9.96 crore. They submit that this material confirms that the property was sold at a grossly inadequate price.

(21) By an Interim Application dated 27.07.2026, the Applicants have sought submission of all valuation reports obtained by the Respondent Bank for the earlier auction attempts. They contend that the earlier Sale Notice dated 21.06.2023 had a reserve

price of Rs.7.50 crore and that reduction to Rs.3.13 crore on the basis of the valuation dated 31.12.2024 is unexplained.

(22) That the Applicant has relied upon various judicial pronouncements in support of the above contentions and has prayed that the Demand Notice, the subsequent measures adopted under Sections 13(4) and 14 of the SARFAESI Act, 2002, the Sale conducted on 18.02.2025 and all consequential steps be quashed and set aside.

Case of Respondent No.1:

(23) Respondent No.1 has opposed the present Securitisation Application by filing a detailed reply affidavit and have denied the allegations levelled by the Applicant. It has been submitted that every measure adopted by it has been undertaken strictly in accordance with the provisions of the SARFAESI Act, 2002 and the Security Interest (Enforcement) Rules, 2002 and that the present Securitisation Application is devoid of merit.

(24) That the Demand Notice dated 11.03.2022 issued under Section 13(2) of the SARFAESI Act, 2002 is valid in law and contains the complete details as required under the law. The allegation that the Demand Notice is defective is denied.

(25) That every statutory requirement prescribed under the SARFAESI Act, 2002 and the Security Interest (Enforcement) Rules, 2002 has been duly complied

with while enforcing the security interest. According to them, the objections raised by the Applicant is an attempt to obstruct the lawful recovery proceedings.

(26) That the account was classified as NPA on 28.02.2022 in accordance with the applicable RBI norms, with the classification being reckoned from the date of restructuring. The document dated 27.04.2023 is stated to be a certificate recording the earlier classification and not the date on which the account became NPA.

(27) That the Demand Notice dated 11.03.2022 validly called upon the borrowers to pay Rs.9,54,37,829.39 within sixty days. According to the Bank, the statutory notice was duly served and the amount remained unpaid. It denies any breach of Section 13(3A) capable of setting aside the subsequent measures undertaken by the Respondent Bank under the provisions of the SARFAESI Act, 2002.

(28) That the Bank relies upon the voluntary handing over of physical possession of the Wada property on 07.11.2022. It submits that a panchnama and inventory of the factory land, building and hypothecated plant and machinery were prepared and signed. According to it, the Applicants accepted the possession measure and did not challenge it within the prescribed period.

(29) That separate reports for the land and factory building and for the plant and machinery were obtained through approved valuers after inspection of the secured assets. It states that the valuation exercise was completed on 31.12.2024. The reserve price was fixed on the basis of those valuation reports.

(30) That the public e-auction conducted on 18.02.2025 was transparent and in accordance with the statutory procedure. Respondent No.4 emerged as the highest bidder for Rs.3.14 crore. Upon payment of the entire consideration, the Sale Certificate was issued on 06.03.2025 and possession & registration were completed on 07.03.2025. The sale proceeds were thereafter appropriated towards the outstanding loan account.

(31) That by Pursis dated 27.07.2026, the Bank has furnished a statement of fourteen unsuccessful and successive auction attempts between July 2023 and February 2025, with the reserve price decreasing from Rs.7.50 crore to Rs.3.13 crore.

(32) That the alleged proposal of Rs.9 crore is disputed. According to the Bank, the emails relied upon by the Applicants did not contain a signed and unconditional offer from an identified purchaser, proof of financial capacity, earnest money or a commitment to complete the purchase within any stated period. The Bank submits that it was not

under obligation to postpone a statutory auction upon such an unsubstantiated communication.

(33) That the book value relied upon by the Applicants is not evidence of the prevailing market or realisable value. It submits that the valuation produced by the Applicants was prepared several months after completion of the sale, was based upon a later inspection and did not include the plant and machinery in its aggregate figure. According to the Bank, expert valuation cannot be displaced merely because the borrower subsequently produces a higher estimate.

(34) That the allegations of fraud, collusion and mala fides are specifically denied. The Bank submits that no material has been produced to establish any connection between its officers and Respondent No.4 or any manipulation of the bidding process. The fact that the successful bid exceeded the reserve price is relied upon as demonstrating that the result was produced by the public auction process

(35) That the Bank has also raised objections of limitation, delay, waiver, acquiescence and estoppel. It contends that possession was handed over in November 2022 and that the sale stood fully concluded before the Applicants impleaded the auction purchaser or placed a properly constituted challenge to the completed transfer. According to

the Bank, an amendment cannot enlarge the limitation prescribed by Section 17 or unsettle rights which had already crystallised in favour of a third party.

(36) That on the aforesaid grounds, Respondent No.1 pray for dismissal of the present Securitisation Application with costs.

(37) That after amendment, Respondent No. 4 was impleaded as a party to the present proceedings. However, by Order dated 10.07.2026, Respondent No.4 was set ex parte.

(38) Heard Ld. Advocates for the parties. Perused the material placed on record.

(39) The scope of jurisdiction exercised by this Tribunal is under Section 17 of the SARFAESI Act, 2002. The jurisdiction of this Tribunal is confined to examining whether the measures adopted by the secured creditor under the provisions of the SARFAESI Act, 2002 are in accordance with law. The Tribunal is required to examine whether the secured creditor has complied with the mandatory provisions of the Act and the Security Interest (Enforcement) Rules, 2002 while enforcing the security interest. Interference under Section 17 is warranted only where the person aggrieved establishes that the impugned measures suffer from a statutory infirmity or have been adopted in violation of the provisions of the Act. Mere disputes

regarding the quantum of outstanding dues or Demand Notice, in the absence of any statutory violation, do not by themselves invalidate the measures adopted under the SARFAESI Act, 2002.

(40) The challenge to the NPA classification and the Demand Notice cannot be accepted. The sanction, restructuring, mortgage and default are borne out by the documents. The Demand Notice quantified the outstanding amount. The Applicants have not produced the applicable RBI norm, an account-wise computation or any record demonstrating that the account was regular on the relevant date. The date on which an NPA certificate was issued is not, by itself, the date of classification. No sufficient foundation has therefore been laid for setting aside the Demand Notice.

(41) The Applicants reliance upon the alleged Rs.9 crore offer also does not, by itself, establish illegality. The emails contain an assertion that a prospective purchaser was interested. The record does not disclose a signed proposal, the identity and authority of the proposed purchaser in a concluded document, proof of funds, deposit or unconditional readiness to complete within the statutory sale process. The Bank was not bound to abandon a scheduled public auction merely on such a communication.

(42) The book value of Rs.9.12 crore is an accounting entry and cannot be equated with the market or realisable value on the date of auction. Equally, the Applicants' valuation dated 08.08.2025 was prepared after the sale, relates to a later inspection and states an aggregate for land and building without including the plant and machinery. It raises a serious disparity but is not strictly comparable to the Bank's valuation. On valuation alone, under valuation or collusion has not been proved.

(43) The Pursis filed on 27.07.2026 by the Bank reflects that the paper publication dated 18.01.2023 describes itself as the first Sale Notice and fixed an auction on 20.02.2023. The Applicants themselves have produced the subsequent Sale Notice dated 21.06.2023, which fixed an auction on 10.07.2023 at a reserve price of Rs.7.50 crore.

(44) The Bank's auction statement thereafter records fourteen auction attempts. The reserve price was Rs.7.50 crore on 10.07.2023 and, after successive unsuccessful attempts, was revised on different dates to Rs.6.90 crore, Rs.6.21 crore, Rs.5.8325 crore, Rs.6.10 crore, Rs.6.516 crore, Rs.6.516 crore, Rs.5.875 crore, Rs.5.44 crore, Rs.4.13 crore, Rs.3.77 crore, Rs.3.77 crore, Rs.3.47 crore and finally Rs.3.13 crore. The figures were not reduced in a single unexplained exercise. They were revised

over approximately nineteen months during which repeated public auctions failed to find a buyer.

(45) It is significant that the reserve price was also increased on certain occasions, from Rs.5.8325 crore to Rs.6.10 crore and thereafter to Rs.6.516 crore. The sequence is therefore inconsistent with the allegation that the Bank followed a predetermined course of continuously decreasing the reserve price for the benefit of Defendant No.4. Also, the earlier reserve price did not find a buyer despite repeated reduction of the reserve price of the property. A reserve price is the threshold below which a sale cannot be confirmed; it is not conclusive proof that the property can actually fetch that amount. The outcome of successive unsuccessful auction attempts reflects the prevailing market condition which cannot be ignored.

(46) The Interim Application filed on 27.07.2026 seeks production of every earlier valuation report. The Bank has already placed the latest valuation reports concerning the immovable asset and plant and machinery on record under Pursis dated 09.06.2026, while the successive unsuccessful auctions explains the reasons for reduction in the reserve price.

(47) Further, the allegation of fraud and collusion require detail and proof. No evidence showing

suppression of bids, restriction on participation, manipulation of the auction platform or other material indicating a prearranged sale has been brought on record. Defendant No.4 offered Rs.3.14 crore, which was above the reserve price of Rs.3.13 crore, after numerous earlier attempts had failed.

(48) The Sale Notice disclosed the description of the Wada property, the outstanding dues, the reserve price of Rs.3.13 crore, earnest money, inspection date and time, mode of possession and the auction scheduled on 18.02.2025. The Applicants have not demonstrated any omission in the notice which caused prejudice or deterred a prospective bidder.

(49) Respondent No.4 i.e. the Auction purchaser participated in the public auction, paid the sale consideration, obtained the Sale Certificate on 06.03.2025 and received possession & registered transfer on 07.03.2025. In the absence of a proved statutory violation, fraud or collusion, the rights of the auction purchaser cannot be displaced merely because the Applicants subsequently obtained a substantially higher valuation.

(50) A borrower who was duly informed of every auction conducted by the Bank cannot be permitted to derail the recovery proceedings at a belated stage merely by asserting the existence of a prospective purchaser willing to offer a higher price or by

alleging that the secured asset has been grossly undervalued. Accordingly, the following order:

ORDER

I. The Securitisation Application No.267 of 2025 is hereby dismissed.

II. Pending IAs, if any, stand disposed of accordingly.

III. No order as to costs.

Sd/-

(Harish Kumar Kaushik)
Presiding Officer,
DRT-2, Mumbai

Radhika