BEFORE THE DEBTS RECOVERY TRIBUNAL-I KOLKATA

PRESENT: -SHRI AMBUJA MOHAN DAS

PRESIDING OFFICER

S.A. No.223 OF 2025

DATE OF DELIVERY OF ORDER: 3rd September, 2026

Mohammed Khalid Raza Khan, son of Md. Razaruddin Khan, of 157/B Lenin Sarani, PS- Bowbazar, Kolkata-700013. PAN: AQNPK8063E

.....Applicant

-Vs-

1. Punjab National Bank, a banking company within the meaning of Banking Regulation Act, 1949 carrying on its banking business at and from, inter alia, its SASTRA Division, Kolkata South, United Tower, 9th Floor, 11 HemantaBasuSarani, Kolkata- 700 001; IFSC: PUNB0826700
2. The Authorised Officer, Punjab National Bank, having office at SASTRA Division, Kolkata South, United Tower, 9th Floor, 11 HemantaBasuSarani,Kolkata-700001;

.....Defendants

Present:

Counsel for the Sarfaesi Applicant: - Mr. Souritra Ganguly, Ld. Counsel

Counsel for the Respondent Bank: -Ms. Samapti Roy, Ld. Counsel

J U D G M E N T

1. 1.Sarfaesi Applicant has filed an application under Section 17(1) of the Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002. Applicant is the Auction Purchaser and participated in the auction of property by defendant Bank

on 27/01/2025.

2. 2. The property put up for auction is Equitable Mortgage of

i) entire first floor of residential flat having super builtup area of 1150 Sq.Ft. more or less along with one car parking space in the ground floor .

ii) entire second floor of residential flat having super builtup area of 1150 Sq.Ft and front portion of the third floor having super builtup area of 700 Sq.Ft.more or less along with two open car parking space.

iii) self contained flat on the Back portion of the third floor having super builtup area 450 Sq.Ft. more or less of a G+III storied building along with undivided proportionate share in the land measuring about 2 cottahs 8 Chittaks 36 Square Feet be the same a little more or less lying and situated in Mouza: Chakmasur, Pargana: Khaspur, J.L.No 30, R.S. No 21 ½2, Touzi No 151, Portion of R S Dag No 53, under R.S. Khatian No 34, within the limits of KMC Ward No.109 being Premises No.1948, Mukundapur, SammilaniPark, P.SSurvey Park, Kolkata-700075 Property Owned By:SriRajuGhosh S/oMonindraGhoshLat: 22.484388, Long: 88.391451.

3. 3. The Sale Notice was published in 'Business Standard' on 28/12/2024 for sale of the above-mentioned properties with reserve price of Rs. A) Rs.89,10,000/ B)Rs. 8,91,000/-(27.01.2025) C) Rs. 50,000/- on AS IS WHERE IS BASIS and "AS IS WHAT IS BASIS" and " WHATEVER THERE IS BASIS"

4. 4. Applicant participated in the e-auction on 27/01/2025 submitted bid of Rs.89,60,000/-. Applicant waitedfor outcome of the said e-auction did not receive any confirmation about sale on 27/01/2025 from the side of the defendants. 28/01/2025 was last date to deposit balance amount

as per Rule 9(3) of the Security Interest (Enforcement) Rules,2002.

5. 5. After two days from the date of auction i.e. on 29/01/2025 at 17:54 P.M. Defendant sent two email to applicant declaring him the Highest Bidder for sale held on 27/01/2025. In email dated 29th January 2025 the said defendants have directed applicant to deposit the balance 25% of the bid amount within"1 working day".

6. 6. On 30/01/2025 applicant was not well. Applicant was interested to purchase the said property and deposited amount of Rs.13,49,000/-, i.e. balance 25% of bid amount, in favour of the Defendant Bank within 31st January 2025 in the following manner:

a. Rs.25,000/- on 30th January 2025 through NEFT

b. Rs.13,24,000/- on 31stJanuary 2025 through RTGS.

7. As per the Rule 9(4) Applicant was required to pay remaining 75%of the bid amount within 15 days from the date of confirmation of sale. But the Applicant was served notice on 11th February 2025 stating that the said auction held in favour of Applicant standscancelledand the EMD amount i.e. Rs.8,91,000/- alongwithRs.25,000/- paid on 30th January 2025 standforfeited.

8. On 29/04/2025 Applicant was served letter on 25/04/2025 stating that the auction conducted in favour of your petitioner stands cancelled. In the said letter, the Defendants informed that the Earnest Money Deposit (EMD) amount of Rs.8,91,000/-, along with an additional sum of Rs.25,000/- paid by petitioner on 30th January 2025, stood forfeited.

9. Ld. Advocate for the Applicant contended that Defendant bank failed to comply with Rule 9(3) of the Security Interest (Enforcement) Rules, 2002, which mandates that the deposit of 25% of the sale price (inclusive of the EMD) immediately upon confirmation of sale, and the balance within 15 days thereafter and prays for injunction against the Defendant Bank until

disposal of the SA.

10.Defendant Bank has filed objection to SA contending that Applicant could not pay the balance amount 25% within one working day i.e. 30/01/2025 for which the Bank has cancelled sale and forfeited EMD. Defendant Bank has annexed sale intimation letter and cancellation of sale letter.

11. Applicant has also filed IA/90/2026 with similar prayer. Defendant Bank has also filed objection to IA/90/2026 with documents.

12. Ld. Advocate for the Defendant Bank has relied judgment of the Hon'ble Supreme Court in the Authorised Officer, Central Bank of India -vs- Shanmugavelu reported in (2024) 6 SCC 641, para 56.1 to 56.4 applicant also relied same judgment para 7,8 and 9. Ld. Advocate for the Defendant Bank also relied judgment of the Hon'ble Supreme Court in R.N. Gosain -vs- Yashpal Dhir, reported in (1992) 4 SCC 683, para – 10.

13. Perused Sale Notice dated 27/12/2024. Property to put to sale at Serial no. 7 with reserve price is Rs.89,10,000/ EMD Rs.8,91,000.00. Sale Intimation Letter dated 29/01/2025 at 17:54 P.M. speaks thatbid amount Rs. 89.60,000.00,25% of the Bid amount (B) 22.40.000.00, EMD amount Paid (C) 8,91,000.00 Balance amount to be paid (B- C) 13,49,000.00- within 1 working day,75% of entire bid amount 67.20.000.00 to be paid within 15 days i.e. on or before 13/02/2025.

14. Applicant requested to the Defendant Bank vide letterdated 29/01/2025 for extension of two months to pay remaining 25 % Amount i.e. Rs.22,40,000/. Applicant also issued further letter to halt cancellation of sale. Defendant Bank issued intimation of Cancelation of Sale due to delay in payment of 15% of bid amount by next day of sale. Applicant paid EMD on 29/01/2025 Rs. 8,91,000.00, on 30/01/2025 Rs. 25,000.00 on 31/01/2025 Rs. 13,24,000.00 Total Rs. 22,40,000.00. Sale intimation letter received on 29/01/2025 after officer hour of the Bank at 17:54 P.M.

Applicant paid Rs. 25,000.00 on 30/01/2025 and Rs. 13,24,000.00 on 31/01/2025 by RTGS.

15. Rule 9(3) ,9(4) and 9(5) of the Security Interest (Enforcement) Rules, 2002 speak:

"(3)[On every sale of immovable property, the purchaser shall immediately, i.e. on the same day or not later than next working day, as the case may be, pay a deposit of twenty five per cent. of the amount of the sale price, which is inclusive of earnest money deposited, if any, to the authorized officer conducting the sale and in default of such deposit, the property shall be sold again;] *[Substituted by Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).]*

(4)The balance amount of purchase price payable shall be paid by the purchaser to the authorized officer on or before the fifteenth day of confirmation of sale of the immovable property or such extended period [as may be agreed upon in writing between the purchaser and the secured creditor, in any case not exceeding three months] *[Substituted by Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).]*.

(5)In default of payment within the period mentioned in sub-rule (4), the deposit shall be forfeited [to the secured creditor] *[Inserted by Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).]* and the property shall be resold and the defaulting purchaser shall forfeit all claim to the propertyor to any part of the sum for which it may be subsequently sold.

16. The Hon'ble Supreme Court in Authorised Officer, Central Bank of India -vs- Shanmugavelu reported in (2024) 6 SCC 641, para 56.1 to 56.3 held as follows:

"This Court in Rakesh Birani (supra) while interpreting Rule 9(5) ofthe SARFAESI Rules made the following pertinent observations: -

56.1. That, the liability of a successful auction purchaser to deposit the requisite amount begins from the date when the sale is confirmed by the secured creditor and communicated to the auction purchaser, wherein 25% of the amount has to be deposited as earnest money not later than the next working day from the date of confirmation and the balance amount within 15 days from the said date.

56.2.That for forfeiture of the 25% earnest money deposit of the auction purchaser, two conditions have to be satisfied being (i) First, that the sale must have been confirmed by the secured creditor and (ii) second, there is a default in payment of the balance 75% of the amount.

56.3. Once the afore-stated conditions are satisfied i.e., the auction purchaser after confirmation of sale fails to deposit the balance amount within the stipulated time, the secured creditor is required to forfeit the auction purchaser's earnest money deposit and the secured asset is to be resold."

17. In this case intimation is given to the Successful Bidder on 29/01/2025 at 17:54 P.M. after normal working hour of Bank. So, it is not possible for applicant to pay 25% of bid amount on 29/01/2025. He can pay that amount on 30/01/2025 or on next day i.e. on 31/01/2025. Defendant Bank intimated to highest bidder about sale after two days. Purchaser Deposited Rs 25,000/- on 30/01/2025 and balance Rs. 13,24,000.00 on 31/01/2025. Intimation given to the Auction Purchaser on third day of sale after office hours. But as per Rule 9(3) remaining

amount 25% of bid has to be paid after intimation of sale to purchaser. For two days delay of intimation of sale by defendant bank auction further should not be suffer.

18. The latter dated 11/02/2025 cancelling sale and forfeiting Rs. 9,16,000/- is unjustified and illegal which are to be set aside.

19. In this case there is no scope to the Auction Purchaser to deposit 75% of the sale proceeds. Judgment of the Hon'ble Supreme Court supports the case of Applicant/Auction Purchaser. The other decisions regarding approbation and reprobation are not material for this case. It is ordered as follows:

O R D E R

i) SA/223/2025 and IA/91 of 2026are allowed on contest against Defendant Bank.

ii) Cancellation of sale vide letter dated 11/02/2025 and forfeiture of Rs. 9,16,000/- are set aside.

iii) Applicant shall deposit balance consideration within 15 days to the Defendant Bank and Defendant Bank shall accept sale consideration.

Copy of the Judgment/Final Order be uploaded in the Tribunal's website.

File is consigned to the Record Room.

(Dictated to P.S., transcribed by her, corrected, signed and pronounced by me in the open Court on this the day 3rdSeptember, 2026)

Place: Kolkata
Date: 3rdSeptember, 2026

(Ambuja Mohan Das)
Presiding Officer

Rina S.

Page No.-	Order Sheet (continuation)	
Case No. SA/223/2025	Mohammed Khalid Raza Khan vs. Punjab National Bank& ors.	
Date of the order	Order with signature	Office action with date and dated signature of parties when necessary
3rd September, 2026	Ld. Advocate,Mr. Souritra Gangulyappeared for the applicant bank. Ld. Advocate, Ms. Samapti Royappeared on behalf of the Defendants. Matter was heard in open Court on this the day of 05/08/2026. The detailed order in seven pages annexed separately. The gist of the order is as follows: **O R D E R** i) SA/223/2025 and IA/91 of 2026 are allowed on contest against Defendant Bank. ii) Cancellation of sale vide letter dated 11/02/2025 and forfeiture of Rs. 9,16,000/- are set aside. iii) Applicant shall deposit balance consideration within 15 days to the Defendant Bank and Defendant Bank shall accept sale consideration. Copy of the Judgment/Final Order be uploaded in the Tribunal's website. File is consigned to the Record Room. (Dictated to P.S., transcribed by her, corrected, signed and pronounced by me in the open Court on this the day 3rdSeptember, 2026) Place: Kolkata (Ambuja Mohan Das) Date: 3rdSeptember, 2026 Presiding Officer	

Rina S.