ORDER SHEET

DEBTS RECOVERY TRIBUNAL, SILIGURI

I.A. Dairy No. 1435 of 2026 in TOA/636/2017 arising out of OA/555/2015

Punjab National Bank — Applicant

Vs

DNB Food Processing Pvt. Ltd. & Ors — Defendants

Date of Order	Order with Signature	Office action with date and dated signature of parties when necessary.

Item No.33 **Order No.07**

29.09.2026

Counsel for the applicant : Mr. P. Joarder

Counsel for the defendants : Ms. Lipi Mahanayak.

1. Today matter is listed for passing final judgment in the instant OA case but today itself one I.A. Dairy No. 1435/2026 has been filed by the defendants to defer the passing of judgment as they have challenged the order of this Tribunal passed on dated 10.09.2026 before the Hon'ble Calcultta High Court.
2. Copy is served to the Ld. Counsel of the applicant bank.
3. Heard Ld. Counsels of both the parties and perused the record.
4. It is an old case of the year 2015 which was received in the file of this Tribunal in the year 2017 and thus OA case No. 555/2015 was renumbered as TOA No. 636/2017. It transpires that defendant no. 3 had filed W.S. on dated 05.02.2018 but the OA case could not be disposed of as either on the ground of settlement or non-filing of W.S. by the other defendants and later on due to filing of various I.A's by the defendants but lastly judgment was passed on dated 26.02.2024 and as the OA case was allowed and thus RC was prepared to realize the dues amount. Above judgment dated 26.02.2024 of this Tribunal was challenged before the Hon''le Court and the Hon'ble Court set aside the judgment with a direction to decide the I.A. No. 24/2024 and thereafter, subject to outcome of the I.A., take up the OA case for disposal on merit with observation to dispose of the OA case preferably within three months from the

date of production of the order. The order of the Hon'ble Court was produced before this Tribunal on dated 22.01.2026 and thereafter I.A. No. 24/2024 was disposed of vide order dated 07.02.2026 and the same was rejected and again the matter was listed for final hearing. Thereafter the defendants started filing I.A's one after other and all of them have been disposed of by this Tribunal and lastly when the matter is fixed today for passing final judgment the instant I.A. has been filed.

5. It is pertinent to mention that the hearing was made on 10.09.2026 but the I.A. to defer the judgment has been filed today itself and this fact clearly indicates that anyhow defendants wants to linger the matter on one ground to other. It is also pertinent to mention that there was clear direction of the Hon'ble Court to decide the I.A. No. 24/2024 and thereafter subject to outcome of the I.A, take up the OA for disposal but even then on various new grounds I.A. have been filed and it is still continuing.

6. In case of **Dr. Buddhi Kota Subbarao Vs. Mr. K. Parasaran & Ors (AIR 1996 SC 2687**) the Hon'ble Supreme Court criticized the practice of frivolous petitions and held that no litigant has a right to unlimited drought on the court time and public money in order to get his affairs settled in the manner as he wishes and easy access to justice should not be misused as a licence to file misconceived or frivolous petitions.

7. Further in Case of **Rajappa Hanamantha Ranoji Vs. Sri Mahadev Channabasappa & Ors [(2002) 6 SCC 120]** the Hon'ble Supreme Court has held "It is distressing to note that many unscrupulous litigants in order to circumvent orders of Courts adopt dubious ways and take recourse to ingenious methods including filing of fraudulent litigation to defeat the orders of Courts. Such tendency deserves to be taken serious note of and curbed by passing appropriate orders and issuing necessary directions including imposing of exemplary costs."

8. The Hon'ble Delhi High Court has held in case of **M/s National Textile Corporation Vs Sh. Kunj Behari Lal (AIR 2010 (Del.) 199)** that frivolous litigation clogs the wheels of justice making it difficult for courts to provide easy and speedy justice to the genuine litigants.

9. In this view of the matter I.A. filed by the defendants is hereby **rejected** with exemplary cost of Rs. 50,000/- (Rupees Fifty Thousand Only) against the defendants

which has to be deposited in favour of the applicant bank in the loan account within four weeks from today failing which the same would be realized by the applicant bank by adopting due process of recovery under the RDB Act 1993.

(RAKESH PATI TIWARI)
Presiding Officer
DRT-Siliguri

Later on:-

The Judgment of the OA case is pronounced and the same is allowed against the defendant no. 1,2,3 & 4 jointly and severally and the detailed judgment of 11 pages is annexed with the record.

The order is dictated and corrected by the undersigned and pronounced in the open Tribunal under my signature on this 29th day of September, 2026.

Let the Certificate of Recovery be drawn up by the Learned Registrar forthwith in terms of judgment for issuance of the same against the defendants in favour of Applicant Bank under Sub-Section 22 of Section-19 of The Recovery of Debts and Bankruptcy Act, 1993 and put up the same for signature for issuance.

Copy of the judgment/final order be given/sent to the parties.

(RAKESH PATI TIWARI)
Presiding Officer
DRT-Siliguri

THE DEBTS RECOVERY TRIBUNAL, SILIGURI

T.O. A. No. 636/2017 arising out of O.A.No. 555/2015

Punjab National Bank (erstwhile United Bank of India), Jalpaiguri Branch, Thana Road, Jalpaiguri, Post Office Jalpaiguri, Police Station – Kotwali, District – Jalpaiguri, Pin – 735101.

…….Applicant

Vs.

1. DNB Food Processing Private Limited, a private limited company with limited share incorporated under the provisions of Companies Act, 1956 having its Registered Office at 20, Nandalal Basu Sarani, Opposite to Dr. Basu's Nurshing Home, Collegepara, Post Office – Siliguri – 734001, Police Station – Siliguri, District – Darjeeling.
2. Smt. Nandita Dutta, W/o Sri. Debabrata Dutta, Director, DNB Food Processing Private Limited, resident of 20, Nandalal Basu Sarani, Opposite to Dr. Basu's Nurshing Home, Collegepara, Post Office – Siliguri – 734001, Police Station – Siliguri, District – Darjeeling.
3. Sri Debabrata Dutta, S/o Sudhir Kumar Dutta, Director, DNB Food Processing Private Limited, resident of 20, Nandalal Basu Sarani, Opposite to Dr. Basu's Nurshing Home, Collegepara, Post Office – Siliguri – 734001, Police Station – Siliguri, District – Darjeeling.
4. Sri Ramendu Chattopadhyay, Director, DNB Food Processing Private Limited, resident of Dharsa, Palpara, Jagacha, GIP Colony, Howrah – 711112.

……..……Defendants

Counsel for the Applicant : Mr. P. Joarder
Counsel for the defendants : Mr. Prasenjit Pal, Ms. Lipi Mahanayak

PRESIDING OFFICER : RAKESH PATI TIWARI
Date of Judgment - 29.09.2026

J U D G M E N T

1. Instant OA case has been filed under section 19 of the Recovery of Debts and Bankruptcy Act, 1993, for issuance of Certificate of Recovery against the defendants for realization of a sum of Rs.2,59,03,645.50p (Rupees two crores fifty nine lakhs three thousand six hundred forty five and paise fifty) only with interest calculated upto 15.11.2015 and future interest thereon from 16.11.2015 @13.50% per annum with monthly rests till realization of the entire amount along with injunction restraining the defendants from disposing of and/or alienating and/or encumbering the personal charged and uncharged assets and also costs.

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2. The facts in brief, giving rise to the present application as pleaded are that considering the application of the defendant No. 2, the applicant bank sanctioned an Overall Limit of Rs. 23.70 lakhs out of which Rs. 20.04 lakhs as Term Loan for purchase of equipments, furniture and fixtures and other fixed assets to set up manufacturing unit of food Processing and Cash Credit limit of Rs. 3.66 lakhs, vide Sanction Letter dated 28.12.2007. The defendant No.2 the sole proprietor of DNB Food Processing executed Demand Promissory Note, Letter of Continuity, Letter of Lien, Hypothecation of movable plant and machinery, Hypothecation of Debts and movable assets, Declaration about Text of Consent, Declaration of Sole Proprietorship, Declaration about any previous loan, Declaration of Mortgage, all dated 28.12.2007. The defendant No.2 also executed Letter of Confirmation for deposit of Title Deed No. 2137 of 2007 and Title Deed being No. 2137 of 2007. Thereafter the defendant No.2 along with the defendant No.3 formed a private company with limited share under the provisions of Companies Act, 1956 and converted the proprietorship business of the defendant No.2 into the company named and styled as DNB FOOD PROCESSING PRIVATE LIMITED. At the request of the Director, the defendant No.2, the applicant bank approved the said conversion and changed the name of the loan accounts as DNB Food Processing Private Limited, the defendant No.1 in place of DNB Food Processing. Thereafter considering the application of the defendant No.1 company, the applicant bank sanctioned an overall limit of Rs. 155.00 lakhs out which Rs. 100.00 lakhs as Term Loan and Rs. 55.00 lakhs as Cash Credit limit against the primary security of equitable mortgage of land proposed building situated at Sarkarpara, Post Office – Kukurjan – 735133, Police Station : Raiganj, District – Jalpaiguri, Mouza – Sukhani, Sheet No. 10, L.J. No. 28, Area – 1027 acres recorded in Khatian No. 2074 and 2075, Hypothecation of all proposed moveable fixed assets including moveable plant and machineries, Spares, Stocks, Book Debts, Raw materials both present and future and additional security of F.D. of Rs. 5.00 lakhs, R.D. @ Rs. 25,000/- for 36 months which would be converted to Term Deposit after maturity and equitable mortgage of Flats No. 20 H & 20 HI on the 4th Floor measuring about 2100 Sq. Ft. situated at Nandalal Basu Sarani, Collegepara, Mouza – Siliguri, J.L. No. 110(88), Plot No. 9436 under Khatian No. 151 valued at Rs. 45.00 lakhs. The Board of Directors in the meeting held on 15.03.2008 empowered the defendants No. 2 & 3 to execute all the deeds and documents as required by the bank and thus the defendants No.2 & 3 on behalf of the defendant No.1 executed

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Demand Promissory Note, Letter of continuity, Letter of Lien, Agreement of Term Loan, Hypothecation of Moveable Plant & Machinery, Hypothecation of Debts and Moveable Assets and Letter of Guarantee in favour of the applicant bank. The defendant No.1 deposited its Title Deed being No. I-2135 of 2007 and No.I-2297 of 2007 for creating equitable Mortgage measuring total area 1.27 acres in Mouza-Sukhani, R.S. Plot No. 843 recorded in Khatians No. 2074 and 2075, Police Station – Rajganj, District – Jalpaiguri. The defendant No.3 deposited his Title Deed being No. I-3576 of 2006 and created equitable mortgage of his two flats altogether measuring 2100 Sq. Ft. in 4th Floor situated at Nandalal Basu Sarani, Collegepara, Opposite to Basu's Nursing Home in Ward No. XVII of Siliguri Municipal Corporation in Mouza – Siliguri, J.L. No. 110 (88), Plot No. 9436 (E.P. No.9), Khatian No. 151, Police Station – Siliguri, District – Darjeeling as Additional Security. The defendant No.1 further deposited Rs. 5.00 lakhs in F.D. account and opened the R.D. account of a sum of Rs. 25,000/- as monthly deposit. Again considering the prayer of the rescheduling proposal of the defendants, the applicant bank sanctioned an Overall limit of 2,00,40,000.00 (Rupees two crores and forty thousand) only out of which Rs. 100.00 lakhs as Term Loan, Rs. 22.81 lakhs as Working Capital Term Loan (WCTL), Rs. 22.59 lakhs as Funded Interest Term Loan (FITL) and Rs. 55.00 lakhs as Cash Credit. The defendants on 29.12.2009 executed Demand Promissory Note for Rs. 2,00,40,000/-, Letter of Continuity, Letter of Lien, Agreement of Term Loan & Hypothecation, Hypothecation of Debts and Moveable Assets, Hypothecation for Moveable Plant & Machinery and Letter of Guarantee. After availing the credit facilities, the defendants failed to regularize the loan accounts and as such the loan accounts were classified as NPA on 31.12.2010. Thereafter, the applicant bank on 15.02.2011 initiated SARFAESI proceedings and issued notice dated 15.02.2011 under section 13(2) of the SARFAESI Act, 2002 but the defendants failed to comply with the said notice. Ultimately, the applicant bank served a notice under section 13(4) of the SARFAESI Act was served upon the defendants on 27.03.2012 and subsequently on 19.05.2012 symbolic possession of the mortgaged properties of the defendants was taken. Thereafter, the defendants preferred an application (S.A./58/2013) before the Debts Recovery Tribunal No.2, Kolkata under section 17(1) of the SARFAESI Act, challenging the alleged action of the applicant bank which is still pending. Applicant bank has stated that on or about 02.11.2011 the defendant No.4 was appointed as one of the Directors of the defendant No.1 having 49% share in capital for running the unit. On 31.12.2012 the

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defendant No.2 during the time of exchange of dialogue for settlement executed the balance confirmation acknowledging the balance of a sum of Rs. 1,45,46,366.00 plus interest w.e.f. 01.01.2011. On 11.01.2013 the defendant No.4 requested the applicant bank in writing to settle the irregularities in the account and expressed his desire for amicable settlement and also requested for the stop of recovery process under SARFAESI Act. The said letter dated 11.01.2013 of the defendant No.4 was replied by the applicant bank on 08.02.2013 welcoming the proposal for settlement of the account. But thereafter no reasonable and positive steps were taken by the defendants. After giving credits for all sums of moneys paid by and/or realized on behalf of the defendants a sum of Rs.2,59,03,645.50p (Rupees two crores fifty nine lakhs three thousand six hundred forty five and paise fifty) only with interest calculated upto 15.11.2015 was due against the defendants.

3. Service report with respect to all the defendants was filed by the applicant bank on dated 08.01.2025 and it is clearly mentioned in order dated 01.06.2017 and the defendant no. 3 filed the W.S. on dated 05.02.2018 but rest of the defendants did not file their written statement.

4. The defendant No.3 filed his written statement stating inter-alia that O.A filed by the applicant bank is not maintainable either in law or in facts and the said application is barred by law of limitation. According to the defendant No.3 the application is barred by the principle of waiver, estoppels and acquiescence as well as bad for non-joinder and mis-joinder of parties. The plea of the defendant No.3 is that the applicant bank has no cause of action against the defendants No.3 and further, this Tribunal has no jurisdiction to try this case. According to the defendant No.3 the defendant has deposited a sum of Rs. 15,00,000/- on 28.05.2012 by a Demand Draft in his account after issuing the notice under section 13 of SARFAESI Act and apart from that a considerable amount has been deposited by the defendant in his account . The contention of the defendant No.3 is that he had filed an application under section 17 of the SARFAESI Act before the DRT-II, Kolkata on 22.01.2013 and the Hon'ble Tribunal was pleased to restrain the applicant bank from going for sale of the property in question and directed the defendants to pay a sum of Rs. 25.00 lakhs to the bank on or before 31.01.2013 and a further sum of Rs. 20.00 lakhs on or before 28.02.2013 as per order dated 22.01.2013. For complying the said order the defendant deposited a sum of Rs. 5.00 lakhs on 27.02.2013, Rs. 5.00 lakhs on 30.03.3013 and Rs. 10.00 lakhs on 18.04.2013 by way of Demand Draft.

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Further as per the order of the Hon'ble DRT-II, Kolkata dated 29.01.2013 it was directed to the appellant bank to keep the said amount since the date of deposit of Rs. 25.00 lakhs in interest bearing no lien account. The plea of the defendant is that without adjustment of the said considerable amount of deposit the applicant bank continued its claim before this Tribunal illegally and for the ulterior motive and illegal gain.

5. The Applicant Bank in support of its case has filed evidence by way of affidavit as affirmed by Sri Subhanuj Sain, the Manager of the Applicant Bank (erstwhile United Bank of India) and also relied upon the following documents:-

Sl. No.	Name of the documents	Exhibit No.
1.	Application with Project Report, Recommendation Letter of West Bengal Khadi & Village Industries Board and Sanction Letter	A, A/1 & A/2
2.	Demand Promissory Note for Rs. 23.70 lakhs dated 28.12.2007	B
3.	Letter of Continuity dated 28.12.2007	C
4.	Letter of Lien dated 28.12.2007	D
5.	Hypothecation of movable plant and machinery dated 28.12.2007	E
6.	Hypothecation of debts and movable assets dated 28.12.2007	F
7.	Declaration about Text of Consent dated 28.12.2007	G
8.	Declaration of Sole Proprietorship dated 28.12.2007	H
9.	Declaration about any previous loan dated 28.12.2007	I
10.	Declaration of mortgage dated 28.12.2007	J
11.	Letter of Confirmation for deposit of Title Deed dated 28.12.2007	K
12.	Title Deed being No. 2137 of 2007	L
13.	Memorandum & Article of Association	M
14.	Application and Resolution of the 1st meeting of the Board of Directors	N & N/1
15.	Sanction Letter	O
16.	Resolution of the Board of Directors.	O/1
17.	Demand Promissory Note dated 15.02.2008	P
18.	Letter of continuity dated 15.02.2008	Q
19.	Letter of Lien dated 15.02.2008	R
20.	Agreement of Term Loan dated 15.02.2008	S
21.	Hypothecation of Moveable Plant & Machinery dated 15.02.2008	T
22.	Hypothecation of Debts & Moveable assets dated 15.02.2008	U
23.	Letter of Guarantee dated 15.02.2008	V
24.	Title Deeds being No. 2135 of 2007, 2297 of 2007 and 3576 of 2006, letter of confirmation, Letter of Acknowledgment	W,W/1, W/2, W/3, W/4 & W/5
25.	Proposal for Restructure and reschedule with all papers, Sanction Letter with Annexure	X & X/1
26.	Demand Promissory Note for Rs. 2,00,40,000/- dated 29.12.2009	Y

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27.	Letter of Continuity dated 29.12.2009	Y/1
28.	Letter of Lien dated 29.12.2009	Y/2
29.	Agreement of Term Loan & Hypothecation dated 29.12.2009	Y/3
30.	Hypothecation of Debts & Moveable Assets dated 29.12.2009	Y/4
31.	Hypothecation for Moveable Plant & Machinery dated 29.12.2009	Y/5
32.	Letter of Guarantee dated 29.12.2009	Y/6
33.	Notice under section 13(2) of the SARFAESI Act	Z
34.	Letters and replies 8 (eight) numbers	Z/1 series
35.	Balance Confirmation dated 31.12.2012	AA
36.	Letter dated 11.01.2013 to settle the irregularities in the account and letter dated 08.02.2013 for reply of letter dated 11.01.2013	AB & AC
37.	Statement of account	AD

6. Learned counsel for the applicant bank has been heard and perused the documents and evidence adduced by the applicant bank as well as the written statement filed by the defendant No.3. Inspite of sufficient opportunity given to the Ld. Counsel of the defendants, their counsel did not argue on their behalf.

7. At the outset it would be relevant to mention that earlier in this matter judgment was passed by this Tribunal vide order dated 26.02.2024 but the defendant moved before the Hon'ble High Court and the Hon'ble Court was pleased to allow the C.O. No. 113 of 2024 and set aside the order of this Tribunal passed on dated 26.02.2024, vide its order dated 28.07.2025 and directed this Tribunal to first decide the question of maintainability of the OA case by deciding I.A. No. 24 of 2024 and thereafter, subject to the outcome of the I.A. 24 of 2024, either take up the OA for disposal on merit or drop the OA, if the maintainability issue is decided in favour of the defendants. The Hon'ble High Court also observed in concluding paragraph of the order that considering the long pendency of the matter, the Tribunal shall expedite the disposal as far as the business of the Tribunal permits, preferably within three months from the date of communication of the order to the Tribunal.

8. It is pertinent to mention that the order of the Hon'ble Court was placed before this Tribunal on dated 22.01.2026 and the Tribunal disposed of the I.A. No. 24/2024 on dated 07.02.2026 after affording an opportunity of hearing to both the parties and as the I.A. was rejected and thus OA was listed for final hearing on dated 12.02.2026 in view of the order of the Hon'ble Court to expedite the disposal within three months but after passing of the order on I.A. No. 24/2024 defendant no. 3 started filing I.A's one after another and total six-seven I.As were filed and detailed order has been passed on dated 08.09.2026 and lastly on dated

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10.09.2026 also order was passed. Order of this Tribunal passed on dated 10.09.2026 is extracted here-in-below:

"Item No.21 ***Order No.06***

10.09.2026

Present:

Counsel for the applicant : Mr. P. Joarder, physical mode.

Counsel for the defendants : Mr. P. Pal, virtual mode.

Hearing is made in hybrid mode.

1. *Matter is listed today for final hearing of the OA case.*
2. *One IA bearing No. 1028/2026 has been filed by the defendants that they are intending to prefer an appeal before the higher forum against the order dated 08.09.2026.*
3. *Heard Ld. Counsels of the parties on the aforesaid IA and perused the record from which it transpires that it is oldest matter of this Tribunal pending since 2015. It also transpires that earlier final judgment was passed by this Tribunal in this matter on dated 26.02.2024 but inadvertently order was not passed on I.A. No. 24/2024 and thus when the defendants moved before the Hon'ble High Court, order of this Tribunal was set aside with a direction in C.O. No. 113/2024 passed on dated 28.07.2025 to decide the question of maintainability of the said OA case by deciding I.A. No. 24/2024 and thereafter subject to outcome of the I.A. proper order was to be passed on OA case preferably within three months from the date of communication of the order.*
4. *Order of Hon'ble Court was placed before this Tribunal on dated 22.01.2026 and after affording an opportunity of hearing to both the parties order on I.A. No. 24/2024 has been passed on dated 07.02.2026 and the IA was dismissed and the OA case was listed for final hearing fixing next date on 12.02.2026 with specific observation that any adjournment shall not be granted to the parties on any ground whatsoever.*
5. *After passing of order on dated 07.02.2026 on I.A. No. 24/2024 by this Tribunal defendants started filing I.A.s one after other.*

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6. *First in the series was filed bearing I.A. 182/2026 to defer the final hearing of OA case and thereafter I.A. No. 298/2026 was also filed to defer the hearing of OA case for four weeks as they would prefer appeal against the order passed by this Tribunal on dated 07.02.2026 on I.A. NO. 24/2024. On next date the defendants took adjournment and lastly on 11.05.2026 Ld. Counsel of the defendants submitted that CO is pending before the Hon'ble Court.*
7. *On dated 13.05.2026 defendants filed another IA No. 531/2026 with a prayer to defer the hearing till the disposal of CO no. 46/2026 pending before the High Court.*
8. *Although it was an old matter but the defendants were lingering the matter on one ground to other and thus long adjournment was given on the submission of the Ld. Counsel of the defendants but for early hearing of the old OA case one I.A. was filed by the applicant and at the same time defendants filed two new*

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I.A's bearing no. 645/2026 & 646/2026 and and after completion of hearing on IA Nos. 645/2026 & 648/2026 order has been passed on both the IAs on dated 08.09.2026.

9. *It is pertinent to mention that while disposing of CO No. 113/2024 on dated 28.07.2025 specific direction was given by the Hon'ble Court to hear the I.A. No. 24/2024 and subject to outcome of the I.A., dispose of the OA case within 3 months but even then more than six I.As have been filed after passing of the order on I.A. No. 24/2024 and as such on one ground to other the defendants are trying to linger the old OA case.*

10. *It is pertinent to mention that with a view to speedy disposal of bank recovery cases RDB Act 1993 was introduced so that by adopting the summary procedure case can be disposed of expeditiously and as per section 19(24) of the RDB Act 1993 OA cases are to be disposed of within 180 days from the date of filing but even then delaying tactics is being applied.*

11. *In this view of the matter IA No. 1028/2026 is hereby dismissed. Other three I.As bearing No. 182/2026, 298/2026 & 531/2026 filed for granting adjournments are also disposed of as they are still showing pending.*

12. *Heard Ld. Counsel of the applicant bank on OA case but the Ld. Counsel of the defendants seeks adjournment which is rejected but the Ld. Counsel of the defendants is at liberty to argue on OA case on any working day before the date of passing judgment.*

13. *List this matter for judgment on dated 29.09.2026."*

9. Apart from formal objections raised in the first 50% of the paragraphs of the written statement, the main plea of the defendant no. 3 in rest of the 50% of the paragraphs is that the defendant has deposited Rs. 15.00 lakhs on 28.05.2012 followed by Rs. 25.00 lakhs on dated 30.01.2013 and rest Rs. 5.00 lakhs on dated 27.05.2013 and Rs. 5.00 lakhs again on 30.03.2013 and Rs. 10.00 lakhs on dated 08.04.2014. But without adjustment of the said considerable amount deposited by them the applicant bank has filed the O.A. case for a sum of Rs.2,59,03,645.50p (Rupees two crores fifty nine lakhs three thousand six hundred forty five and paise fifty). The defendant has not denied the advancement of loan facilities to them by the bank. Although any proof of such deposits have not been annexed with the written statement and the defendant has accepted that payments were made after initiation of SARFAESI measures by the applicant bank and some amounts in compliance of order of Debts Recovery Tribunal -2, Kolkata passed in S.A. case No. 58/2013 and the defendant has also accepted that as per the order of the DRT-2, Kolkata dated 29.01.2013 Rs. 25.00 lakhs was deposited in Interest bearing No Lien Account. If any amount was deposited in the loan account, the same would have been adjusted by the applicant bank before filing of the OA case.

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10. So far the amount deposited by the defendants is concerned, it would be adjusted if any Recovery Certificate is issued for a particular amount in favour of the applicant bank if it is found that the same was not adjusted by the applicant bank and in the instant matter the defendant himself has admitted that it was deposited in No Lien Account and probably only due to this reason without adjusting the said deposited amount the OA case would been filed by the applicant bank and the defendants may be at liberty to file appropriate petition before the Ld. Recovery Officer, after issuance of Recovery Certificate if any, for adjustment of the already deposited amount.

11. With respect to the pleadings in the W.S. on the point estoppel, waiver & acquiesce and non-joinder of the party, any specific plea has not been taken and the settled law is that mere pleadings have got no importance in the eye of law unless the same is supported by any cogent evidence.

12. Beyond the pleadings of the written statement, some points have been raised in the written notes of arguments by the defendants and cited some judgments also when earlier written notes of argument was filed by the defendants but the points raised beyond the pleadings cannot be considered by this Tribunal and the judgment passed with regards to beyond the pleadings points would not benefit the defendants either way.

13. Taking into account of the creation of the mortgage of immovable landed property on dated 28.12.2007 by the defendants, the limitation available is for 12 (twelve) years and as such the claim of the applicant bank is within limitation because the OA case has been filed on dated 30.11.2015.

14. The applicant bank has got valid cause of action to file this case as after taking the loan the defendants failed to make payment as per the terms and conditions of the sanction letter agreed by the defendants at the time of taking loan. Section 19(1) of the RDB Act 1993 prescribes that the Bank/F.I. has to recover the debt by filing an application before the Tribunal.

15. In view of the above discussions, and considering the evidences adduced by the applicant bank, and also keeping in view the pleadings of the defendant no. 3, this Tribunal finds that the applicant has proved its case and accordingly, the applicant bank is entitled to get the relief as claimed for and thus the following order is passed:-

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O R D E R

(i) T.O.A.No.636/2017 arising out of O.A. No. 555/2015 filed by the applicant bank is allowed against the defendants No. 1, 2 3 & 4 with cost and it is hereby ordered that the applicant bank is entitled to recover the total dues debt amount for Rs.2,59,03,645.50p (Rupees two crores fifty nine lakhs three thousand six hundred forty five and paise fifty) only with interest calculated upto 15.11.2015 and further interest thereon @ 13.50% p.a. with monthly rests from 16.11.2015 till realization of entire balance from the defendants along with costs.

(ii) Amount, if any, paid by the defendants in the loan account or amount recovered by the applicant bank, if any, made towards the loan accounts after filing of the O.A be taken into account while arriving at the exact amount of outstanding payable by the defendants.

(iii) The mortgaged properties being (1) All that piece or parcel of raiyati land measuring 0.73 acres held under the State of West Bengal recorded in R.S. Khatian Nos. 2074 and 2075, L.R. Khatian No. 4117, Sheet No. 10, appertaining to and forming part of R.S. Plot No. 843, L.R. Plot No. 1578 measuring 0.23 acres, R.S. Plot No. 849, L.R. Plot No. 1576, measuring 0.34 acres, R.S. Plot No. 844, L.R. Plot No. 1579, measuring 0.03 acres, R.S. Plot No. 849/1354, L.R. Plot No. 1581, measuring 0.10 acres and R.S. Plot No. 849/1353, L.R. Plot No. 1580, measuring 0.03 acres total in 5 plots of land measuring 0.73 acres situated in Mouza – Sukhani, Pargana – Baikunthapur, J.L.No. 28, Police Station – Rajganj, Block Rajganj, District – Jalpaiguri, which is butted and bounded by North – House of Kalatu Roy and land of Jagadish Saha & others, South – Land of Smt. Nandita Dutta (the defendant No.2), East – Land of Charan Chandra Roy, West – 15'.00" wide Road (2) All that piece or parcel of land measuring 0.54 acres held under the State of West Bengal recorded in R.S. Khatian Nos. 2074 and 2075, L.R. Khatian No. 4117, Sheet No. 10, appertaining to and forming part of R.S. Plot Nos. 843, L.R. Plot No. 1578 measuring 0.22 acres, R.S. Plot No. 849, L.R. Plot No. 1576, measuring 0.34 acres, R.S. Plot No.844, L.R. Plot No. 1579, measuring 0.07 acres and R.S. Plot No. 849/1353, L.R. Plot No. 1580, measuring 0.07 acres total land in 4 plots of land measuring 0.70 acres and out of 0.70 acres purchased land measuring 0.54 acres situated in Mouza-Sukhani, Pargana – Baikunthapur, J.L. No. 28, Police Station Rajganj, Block Rajganj, District – Jalpaiguri, which is butted and bounded by North – Land of Smt. Nandita Dutta (the defendant No.2), South – Sariaam Chaulhati Road, East – Anchal Road, West – Land of D.N.B. Food Processing Pvt. Ltd. (the defendant No.1) , as mentioned in Schedule 'A' annexed to the original application, (3) All that piece or parcel of residential Flat measuring 2100 Sq. Ft.

(Contd…)

including super built area in the 4th Floor of 4 storied building with right to enjoy the common facilities and proportionate land held under the State of West Bengal and recorded in Khatian No. 151 appertaining to and forming part of C.S. Plot No. 9436, E/P No. 9 at Collegepara, Nandalal Basu Sarani, Ward No. XVII of Siliguri Municipal Corporation, Post Office and Police Station – Siliguri, District – Darjeeling standing in the "A" Schedule land of the Title Deed (2) One car parking space in the garage at the ground floor of the aforesaid building standing on the "A" Schedule land of the Title Deed which is butted and bounded by North – Open space and house of Sri. Gopal Bose, South – Open space and Municipal Road, East – Open space and house of Narayan Saha, West – Open space and house of Amarendra Nath Chowdhury, as mentioned in the Schedule-"B" of the original application, shall remain charged to the applicant bank and the applicant bank shall have paramount charge thereon.

(iv) The defendants are debarred from transferring; alienating, encumbering or disposing of the hypothecated/mortgaged properties or any other property and assets belonging to the defendants till the aforesaid adjudicated debt amount is recovered from the defendants.

(v) The defendants are given a time of thirty days from the date of this judgment for repayment of the above decreed debt amount with interest failing which the applicant bank is entitled to recover its dues by sale of the hypothecated/mortgaged property as aforesaid and is also entitled to proceed against the said defendants personally and/or personal properties to recover the dues in accordance with law.

(vi) Let the certificate of Recovery be drawn up by the Learned Registrar forthwith in terms of judgment for issuance of the same against the defendants in favour of applicant bank under Sub-Section 22 of Section-19 of The Recovery of Debts and Bankruptcy Act, 1993 and put up the same for signature and issuance.

(vii) Learned Recovery Officer is directed to realize the dues amount from the defendants as per the recovery certificate in accordance with law.

(viii) Let this judgment be uploaded on website of the tribunal and the Registry is directed to serve/send copy of this judgment to the parties free of cost.

(ix) Record is consigned to the record room along with the judgment.

The judgment is signed and pronounced in the open Tribunal on 29th day of September, 2026.

(RAKESH PATI TIWARI)
Presiding Officer
DRT, Siliguri.