

22.07.2025
Court No.13
Item No.2
AP/sp

FMA 309 of 2022
With
CAN 1 of 2022
With
CAN 2 of 2022
With
CAN 3 of 2022
With
CAN 4 of 2023

Arpita Debnath and Anr.
Vs.
UCO Bank and Ors.

Mr. Shantanu Sinha
Mr. P. Saha

.... For the Appellants.

Mr. S. Pal Choudhuri
Ms. Shilpi Paul

..For the UCO Bank.

Re.: CAN 1 of 2022

1. The application being CAN 1 of 2022 has been filed seeking condonation of delay of 153 days in filing the appeal.

2. Sufficient grounds have been made out in the instant application explaining such delay. Hence, the delay is condoned.

3. Accordingly, CAN 1 of 2022 is allowed.

Re.: CAN 2 of 2022

4. The application being CAN 2 of 2022 is an application for impleading the auction purchaser of the property from the bank namely Pradip Bhakat.

5. Since the auction purchaser's interest i.e. Pradip Bhakat, is vitally interlinked to this proceeding, he is a necessary party to this appeal.

6. Let Pradip Bhakat be impleaded as a party respondent to the instant proceeding.

7. Accordingly, CAN 2 of 2022 is allowed.

Re.: CAN 4 of 2023

8. The application being CAN 4 of 2023 is an application for substitution of Reshmi Bhagat instead and in place of Pradip Bhagat, who stated to be died during the pendency of the appeal.

9. Let Reshmi Bhagat be substituted in place of the deceased Pradip Bhagat, original auction purchaser from the bank.

10. Liberty is granted to the advocate on record to substitute Reshmi Bhagat in place and instead of Pradip Bhagat, the original auction purchaser from the bank.

11. Abatement of the appeal, if any, shall stand set aside.

12. Accordingly, CAN 4 of 2023 is allowed.

**Re.: FMA 309 of 2022
With
CAN 3 of 2022**

13. The borrowers, who were the respondent nos. 7 and 8 before the Single Bench are aggrieved by an order

dated 22nd July, 2021 passed by a Single Bench of this Court. It appears that the respondent no. 9 claimed to be a tenant of the secured asset. The bank sold the property under the provisions of Section 13(4) read with Rule 8 of the SARFAESI Act, 2002 and Rules of 2002 respectively.

14. The borrowers/respondent nos. 7 and 8 approached the Debt Recovery Tribunal challenging the sale by the bank under Section 17 of the SARFAESI Act, 2002.

15. It is argued by the learned counsel for the appellant that the Single Bench has disposed of the writ petition directing the parties to approach the DRT in the Section 17 proceeding to agitate their grievances ignoring the pendency of a civil suit filed by the tenant against the appellant/landlord. The bank was not made party to the aforesaid civil suit.

16. It is now well-settled that as to whether the sale in favour of the auction purchaser completed by the bank is subject to any tenancy rights and as to whether the sale was conducted in terms of the Act and Rules framed must be adjudicated by the DRT under Section 17 of the Act of 2002.

17. The appellant and the alleged tenant are at liberty to approach the DRT for early disposal of their

application under Section 17 of the SARFAESI Act, 2002 where all issues can be dealt with under one umbrella.

18. The argument of learned counsel for the appellant that the bank could not have approached the District Magistrate under Section 14 of the SARFAESI Act, 2002 during the pendency of a proceeding under Section 17 is thoroughly misplaced.

19. A proceeding under Section 14 is independent of any proceeding initiated by the borrower under Section 17 of the SARFAESI Act. It is for the borrower to have approached the DRT for interim relief against sale or it was otherwise entitled to law. Such discussion is now academic since the sale has been completed and possession has handed over to the purchaser whose legal heir and widow have been added as party respondents in this proceeding.

20. The DRT shall proceed with the matter as directed hereinabove and may decide appropriately on all issues raised by the borrower and purported tenant.

21. With the aforesaid observations, FMA 309 of 2022 shall stand disposed of. Consequently, the application being CAN 3 of 2022 shall also stand disposed of.

22. There shall be no order as to costs.

23. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)