

20.05.2025
Court No.652
Item No.2
sudipta

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 3754 of 2018

**Mahabir Prasad Gupta
Vs.
Dola Enterprises Private Limited & Anr.**

Mr. Suddhasatva Banerjee
Mr. Supratic Roy
Mr. Shuvajit Roy

...for the petitioners

Mr. Srijib Chakraborty
Mr. Pinak Kumar Mitra
Mr. Debdutta Raha
Ms. Sampurna Ghosh

...for the opposite party no. 1

1. Learned counsel for the petitioner submits that in terms of order dated 5th May, 2025, opposite party no. 2, Central Bank of India has duly been served. Let the affidavit of service be placed on record within two days.
2. The present petition has been filed challenging the order dated 31st July, 2018 passed by the Debt Recovery Appellate Tribunal in Appeal No. 18 of 2015. The facts in brief as stated by the learned counsel for the petitioner is and not contradicted by the learned counsel for the opposite party no.1 are that the petitioner was the borrower and in the event of default the recovery proceedings were

initiated against him. The recovery officer pursuant to the recovery certificate passed an order of sale of the mortgage property. The mortgage property was purchased by the opposite party no. 1 in 2006. This order of the recovery officer was challenged by the petitioner before the Debt Recovery Tribunal. The Debt Recovery Tribunal set aside the auction sale. The Debt Recovery Tribunal while deciding the appeal nos. 1 and 2 of 2006 directed the petitioner herein to deposit/pay Rs.29,36,000/- within 30 days to the opposite party no. 2/bank for refund of the same to the opposite party no. 1 auction purchaser. After the matter was carried to the Debt Recovery Tribunal, the bank/opposite party submitted that the auction purchaser i.e. opposite party no. 1 did not come forward to receive the said amount. The Debt Recovery Appellate Tribunal as an interim measure directed that the said amount of Rs. 29,36,000/- be kept in no lien interest bearing account by the bank until further orders. However, the appeal was finally allowed by the Debt Recovery Appellate Tribunal by the detailed order dated 31st July, 2018. However, no direction was issued regarding the amount. The DRAT while disposing of the appeal, inter alia, held that the

borrower i.e. petitioner is entitled to refund of the said amount along with interest accrued therein. However, granted liberty to the bank to put their claim before the recovery officer and the recovery officer was directed to examine the claim of the bank and pass appropriate order regarding adjustment of the outstanding amount, if any, with the amount refundable.

3. Learned counsel for the petitioner submits on instructions that he does not want to press the present petition and the petition may be disposed of, however, direction may be issued to the opposite party no. 2, Central Bank of India to release the amount deposited by the petitioner borrower in terms of the order of Debt Recovery Tribunal, III, Kolkata dated 29th October, 2014. Learned counsel submits that the Debt Recovery Appellate Tribunal could not have given liberty to the bank to place their claim before the recovery officer for the adjustment outstanding amount. Learned counsel for the petitioner submits that this amount was deposited by the petitioner in terms of the order of Debt Recovery Tribunal and, therefore, this amount should be refunded as it along with the interest accrued thereon.

4. Learned counsel for the opposite party no. 1 has also fairly submitted that this amount should have been refunded to the petitioner.
5. In view of the submissions made hereinabove, the impugned order passed by the Debt Recovery Appellate Tribunal in appeal no. 18 of 2015 dated 31st July, 2018 is upheld except to the extent that the amount deposited by the borrower/petitioner be refunded along with the interest at RBI rate of interest accrued therein within 8 weeks. If the bank has any outstanding amount, the bank can take appropriate steps in accordance with the law.
6. In the submissions of the opposite party no. 1, learned counsel submits that the petitioner has now restricted his challenge only to the extent of refund of amount.
7. With the aforesaid observations, the instant petition stands disposed of.
8. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)