Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Supratim Bhattacharya

MAT No. 27 of 2026
+
CAN 1 of 2026

Propello Innovations Private Limited and another
-vs-
South Indian Bank Limited and another

For the appellant : Mr. Deepan Kumar Sarkar,
Ms. Deepti Priya,
Mr. Rajib Mullick,
Mr. Biswaroop Ghosh

For the respondent No. 1 : Mr. Probal Mukherjee, Sr. Adv.,
Mr. Anirban Pramanick,
Mr. Purbansu Nath,
Ms. Bhagyasree Dey.

For the respondent no. 2 : Mr. D. K. Kundu,
Mr. Arjun Basu

Heard on : January 8, 2026.

Judgment on : January 8, 2026.

<u>Sabyasachi Bhattacharyya, J.</u>:

1. Leave was granted to the appellants to file the present appeal without the certified copy of the impugned order and the matter is being taken up out of turn on an urgent basis on very short notice on the respondents in view of the extreme exigency pleaded by learned counsel for the appellants.
2. The appellants challenge an order whereby an order of ad interim injunction granted earlier by the writ court, which was thereafter extended from time to time, was vacated on the ground that, pursuant to an One Time Settlement (OTS) entered into between the appellants and the respondent no. 1-bank, the writ petitioners/appellants had failed to deposit an amount of Rs. 81,00,000/- by December 31, 2025.
3. The genesis of the challenge is an additional penalty imposed on the appellants by the respondent no. 1-South Indian Bank Limited which, according to the appellants, was *de hors* the law.
4. It is contended by the appellants that due to such imposition, the appellants' account exceeded the credit limit, thereby exposing the appellants to the classification of their account as

Non Performing Asset (NPA). Due to such classification, it is argued that measures under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, “the 2002 Act”) were initiated by the respondent no. 1-South Indian Bank Limited.

5. The premise of the writ petition was the allegedly unlawful imposition of additional penalty and the consequential actions taken on the basis thereof.

6. Although initially an interim order was granted by the learned Single Judge, subsequently settlement talks were initiated between the parties. The parties had arrived at a consensus in respect of an OTS, by virtue of which the appellants were to remit an amount of Rs.5,39,00,000/- within February 28, 2026, which was paid by the appellants.

7. However, the appellants failed to pay to the respondent no. 1-South Indian Bank Limited the balance amount of Rs.81,00,000/- by December 31, 2025, which prompted the learned trial Judge to vacate the interim order.

8. Learned counsel for the appellants argues that the amount could not be paid since there was an arrangement between the appellants and the State Bank of India that the latter would cover the said amount, from which assurance the State Bank of India allegedly withdrew in the night of December 30, 2025, thereby jeopardizing the chances of the appellants to pay such amount to the present respondent no. 1-South Indian Bank Limited.

9. Learned counsel thus submits that since the writ petition itself has been fixed for hearing on January 15, 2026, and as the appellants are fully prepared to advance their arguments, which they were also prepared on the date of the impugned order, an interim order be granted for a limited period to protect the interest of the appellants.

10. It is submitted that otherwise, the writ petition will be rendered infructuous.

11. Learned counsel appearing for the respondent no. 1-South Indian Bank Limited vehemently opposes the prayer of the appellants and submits that extremely short notice was given to the his client before moving the present appeal.

12. It is further submitted that the respondent no. 1-South Indian Bank Limited has already taken measures under Section 13(4) of the 2002 Act by taking possession of the subject property of the appellants.

13. As such, in any event, the interim order granted by the writ court, it is submitted, has become infructuous.

14. Even otherwise, it is alleged by the respondent no. 1-South Indian Bank Limited that the total outstanding dues of appellants are to the tune of Rs. 11,00,00,000/-, only upon the payment of which amount can the appellants seek any interim order.

15. Even otherwise, it is contended that the prayer for injunction is barred by the provisions of the 2002 Act, since measures under Section 13(4) under the 2002 Act have already been initiated and culminated in the possession of the immovable property of the appellants being taken by the bank.

16. Learned counsel for the bank disputes the submissions of the appellants as to the involvement of the State Bank of India and contends that such development does not find place in the writ petition.

17. Upon hearing learned counsel for the parties, we find that the impugned order does not tantamount to a “judgment” for us to invoke jurisdiction in an intra-court appeal under the Letters Patent of this Court.

18. However, at the same time, we appreciate that the appellants have sought to made out an apparently plausible ground for not being able to honour the commitment of payment of Rs. 81,00,000/- by December 31, 2025.

19. The learned Single Judge proceeded on the premise of such non-payment on the basis of an OTS which never materialized to vacate an ad interim order which had previously been granted and was extended from time to time, thereby leaving the appellants in the lurch altogether, despite the writ petition itself being fixed on January 15, 2026 for final hearing.

20. In such view of the matter, we are of the opinion that the interest of the writ petitioners/appellants ought to be protected to a limited extent at least for a limited period to the extent that the respondent no. 1-South Indian Bank Limited should not create any third party interest in respect of the subject property.

21. Accordingly, MAT No. 27 of 2026 is disposed of, without interfering with the impugned order dated January 6, 2026 passed in WPA No. 25431 of 2024, but restraining the respondent no. 1-South Indian Bank Limited from creating any third party interest and/or encumbering the subject property, of which possession has been taken pursuant to Section 13(4) of the 2002 Act by the respondent no. 1-South Indian Bank Limited, till January 31, 2026 or until further order to be passed by the learned Single Judge, whichever is earlier.

22. It is made clear that it will be open to the learned Single Judge taking up the writ petition to vacate, vary, modify and/or extend this order as per the discretion of the learned Single Judge.

23. However, keeping in view of the fact that the writ petition has been fixed under the heading ‘Specially Fixed Matter’ at a designated time, that is, 12 noon on January 15, 2026, this Court is confident that the learned Single Judge shall take up the hearing of the writ petition on the said day and will pass appropriate orders accordingly.

24. The parties are requested to cooperate in that regard.

25. CAN 1 of 2026 is also disposed of consequentially.

26. There will be be no order as to costs.

27. The parties and all concerned shall act on the server copy of this order without insisting upon prior production of the certified copy thereof.

28. It is made clear that the merits of the disputes involved in the writ petition have not been entered into at all by us and all questions, including the legality of the steps taken under Section 13(4) of the 2002 Act by the respondent no. 1-bank, are being kept open for being argued by the parties before the writ court.

29. Since no affidavits have been invited, it is made clear that none of the allegations made in CAN 1 of 2026 are deemed to be admitted by the respondents.

30. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties at an early date.

I agree.

(**Sabyasachi Bhattacharyya, J**.)

(**Supratim Bhattacharya, J**.)