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(OP)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 2523 of 2026

M/S PARAMANNANDA HARDWARE & BUILDERS & ANR.
VS.
BANKOF INDIA & ORS.

Mr. Jaydip Kar, Sr. Advocate
Mr. Nimish Mishra, Advocate
Mr. Abir Mondal, Advocate
……for the Petitioner
Mr. Arnab sinha, Advocate
Mr. Amartya Basu, Advocate
……for the Bank of India

1. The residential property of the petitioner no. 2, has been sold by the Bank under The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter, the said Act).
2. The sale had been completed sometime in July 2025.
3. The sale had been challenged by the petitioners before the Debts Recovery Tribunal on 22.08.2025 by way of I.A. 1887 of 2025. By the said application, the petitioners sought an opportunity of redemption and challenged the sale. The said application was dismissed on 23.12.2025 by the concerned Tribunal.
4. From the order of dismissal dated 23.12.2025, the petitioners had preferred an appeal before the Debts Recovery Appellate Tribunal being Diary No. 49 of 2026 on 12.01.2026. However, since the Appellate Tribunal was not in session, the petitioners had also filed this writ-petition on 22.01.2026 seeking certain orders.
5. While the appeal and the writ-petition was pending adjudication, on 29.01.2026 the Bank proceeded to

take possession of the property, which is the only residential property of the petitioner no. 2.

6. The grievance of the petitioners could not have been addressed, had this been a normal process as the petitioners have a statutory remedy which is equally efficacious.
7. However, the Appellate Tribunal not being in session at the material point of time, left the petitioners non-suited. Thus, the petitioners cannot be permitted to suffer the consequences of a default without there being any remedy available to it.
8. The outstanding of the petitioners of approximately Rs.26 lakhs, as informed by both parties, will be earmarked by the petitioners in a Fixed Deposit Account in favour of the proceeding pending before the Debts Recovery Appellate Tribunal being Diary No. 49 of 2026.
9. Since Mr. Sinha, learned Advocate appearing for the Bank, submitted on instruction that possession of the said property has not yet handed over to the auction purchaser; Bank will retain possession of the property till 05.03.2026 and will not further encumber the property including registration of the sale certificate till the afore-stated date.
10. In the meanwhile, the petitioners will take appropriate steps to proceed with the appeal before the Appellate Tribunal, as expeditiously as possible.
11. The Appellate Tribunal is requested to take up and decide the appeal being Diary No. 49 of 2026 by 27.02.2026.
12. I make it clear that the limited interim protection has been passed solely on the ground of *coram non-judice,* as the same would render the petitioners remediless. It is also made clear that I have not gone

into the merit of the matter and the Appellate Tribunal will be at liberty to decide the matter uninfluenced by any observations made in this order.

13. With the afore-stated directions the **WPA 2523 of 2026** is **disposed of.** No order as to costs.

(Reetobroto Kumar Mitra, J.)