CO 854 of 2026

Axis Bank Limited & Anr.
v.
Classic & Co.& Anr.

12.03.26
DL-30
Ct-06
(S.R.)

Mr. Siddhartha Banerjee
Mr. Sayak Ranjan Ganguly
Mr. Srijani Ghosh
Ms. Ankita Jha
Ms. Kripa Kami ... for the petitioner.

1. This revisional application is directed against an order dated January 20, 2026 passed by the learned Debts Recovery Appellate Tribunal in Misc. Appeal No. DN 1380/2025 passed by the learned Debts Recovery Tribunal – I, Kolkata in SA 39 of 2025 whereby an order dated December 21, 2024 passed by the learned Chief Judicial Magistrate, Howrah, on an application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter 'SARFAESI Act, 2002'), had been set aside.
2. The Appellate Tribunal did not entertain the petitioners' appeal on the ground of the same being barred by limitation. The petitioners' application seeking condonation of delay in preferring the appeal was dismissed on the finding that the petitioners were in the know of mortgage of leasehold rights in respect of the property described in the notice dated April 20, 2024 issued by the

petitioners under Section 13(2) of the SARFAESI Act, 2002 (pages 172 to 175 of the civil revisional application).

3. Mr. Banerjee, learned advocate appearing for the petitioners assisted by Mr. Ganguly, Mr. Ghosh and Ms. Jha submits that the Bank is a mortgagee in respect of two corporeal rights i.e. title from the owner and leasehold rights of the lessee. It is submitted that the title in respect of the property mentioned in the said notice under Section 13(2) was mortgaged by the owner thereof, namely, M/s. Supreme & Co. Pvt. Ltd. (hereafter Supreme) by deposit of title deeds. In support of such submission, he has taken this Court through a declaration-cum-confirmation deed dated July 9, 2011 (pages 283 to 286 of the revisional application). It is next submitted that the leasehold rights in respect of the same property that rested with one M/s. Techno Power Services Private Ltd. (hereafter Techno Power) were also mortgaged with the petitioner no.1/bank by deposit of title deeds (lease deeds). In support of such contention, Mr. Banerjee invited the attention of this Court to a "record of mortgage by deposit of title deeds" dated April 30, 2013 executed by aid Techno Power (page 171 of the revisional application).

4. He has also taken this Court through the claim

submitted by the petitioner/bank, as a financial creditor of Supreme before the resolution professional to indicate that at the time of submission of the claim, it had somehow escaped the notice of the bank that the bank was not only a mortgagee in respect of title of the aforesaid property but also in respect of the leasehold rights created in respect of the said property in favour of Techno Power. He has placed the details of the claim made against the corporate debtor at serial no.5 of the claims wherein the particulars of the mortgaged property have been given excepting the mortgage in respect of leasehold interest.

5. He has also invited the attention of this Court to the affidavit affirmed by the petitioner/bank in support of the claim submitted before the resolution professional wherein the copy of declaration-cum-deeds of confirmation dated April 30, 2013 has been mentioned and has submitted, on instructions, that although in the said affidavit, it has been mentioned that a copy of declaration-cum-deed of confirmation dated April 30, 2013 has been annexed yet, with the claim the declaration-cum-confirmation deed dated July 9, 2011 had been appended which evinced mortgage of title in respect of the property mentioned in the Section 13(2) notice and not mortgage of the leasehold right in

respect of the said property.

6. Mr. Banerjee submits that the learned Appellate Tribunal has failed to appreciate that it was not even the case of the resolution professional that the petitioners had brought on record any document asserting mortgage in respect of leasehold rights and that being so it could not be said that the bank knowingly did not put forth its case as regard leasehold rights.
7. It is submitted that the inadvertence on the part of the bank in not putting forth its claim in respect of the leasehold right over the mortgaged property, could not have been and should not have been lightly brushed aside by the Appellate Tribunal despite there being ample evidence to suggest that the bank had not suppressed anything deliberately.
8. Having heard the learned counsel appearing for the petitioners and having perused the material on record, this Court is of the, *prima facie,* view that the order passed by the learned Appellate Tribunal may not be correct to the extent that it holds that the bank had knowledge about the leasehold rights over the mortgaged property prior to November 2025. This is so because the documents available on record *prima facie* reveal that the bank never stressed on the leasehold mortgage which could be the result of mishandling of documents since a

bank is usually manned by different persons at different points of time. Therefore, it *prima facie* appears that the Debts Recovery Appellate Tribunal has missed the substance of the bank's case.

9. The petitioners shall, therefore, serve a copy of this revisional application along with a notice on the opposite parties intimating them that the matter shall be taken up next on April 21, 2026.

10. The petitioners shall file affidavit of service to that effect on the returnable date.

(Om Narayan Rai, J.)