

Item No.2
17.03.2026
Court. No. 12
GB

MAT 475 of 2026
With
CAN 1 of 2026
With
CAN 2 of 2026

Arbind Didwania
Versus
AU Small Finance Bank Limited & Ors.

Mr. Swarnendu Chatterjee,
Ms. Alisha Kar,
Ms. Mousumi Das

...for the Appellant/Applicant.

Mr. Swapan Kumar Datta, Ld. G.P.,
Mr. Rajat Dutta

...for the State.

Mr. Subhankar Nag,
Mr. Sayak Ranjan Ganguly,
Ms. Srijani Ghosh,
Ms. Ankita Jha,
Mr. Kripa Kami

...for the Respondent Nos.1 & 2.

1. CAN 1 of 2026 is an application for special leave to appeal filed by a third party who had entered into an agreement for sale with the predecessor-in-interest of the respondent nos.6 to 11.
2. Mr. Swarnendu Chatterjee, learned advocate for the applicant submits that the order dated December 17, 2025 passed by a learned Single Judge in WPA 28319 of 2025 adversely affects the suit filed by the applicant. The order of the writ court amounts to setting aside the order of the civil court. He seeks to prefer the appeal on the ground that in the teeth of the order of injunction of the civil court, the CJM passed an order upon the bailiff to act as a Court

Commissioner to be assisted by the police authorities for taking over possession of the secured assets. He submits that in the proceeding before the DRT, the applicant was a party, i.e., respondent no.3. The secured creditor was all along aware of the fact that a suit was pending and the applicant was a necessary party. The learned Single Judge also recorded the factum of pendency of the suit and the order of status quo, but did not implead the applicant as a respondent in the writ proceeding. He submits that once the learned Single Judge was aware of the pendency of the suit and the order of status quo which was passed in favour of the applicant, it was necessary for the applicant to be brought on record at least by an order of court.

3. According to Mr. Chatterjee, the agreement for sale predated the SARFAESI proceeding. The order under Section 14 was passed by the CJM after the suit was filed and an order of status quo was passed. These facts were necessary to be brought on record before the writ court prior to disposal of the writ petition.
4. Considering the submissions of Mr. Chatterjee, we allow the application being CAN 1 of 2026. We grant the leave to appeal. We permit the appeal to be regularized. The learned advocate is permitted to argue on the appeal.

5. We have considered the order impugned in details in the appeal at the instance of the alleged borrowers and we are of the opinion that the learned Judge did not express any opinion either on the merits of the suit or on the merits of the order of status quo. The learned Judge only decided the issue that, once the CJM had passed an order under Section 14, of the SARFAESI Act, the said order must be carried out. The CJM did not have the authority to either stay his own order or direct the bank to approach the civil court for necessary relief, thereby rendering a prior order under sections 14 of the said Act as infructuous. Thus, the rights of the third party in the suit and the effect of the order of status quo was not decided by the learned Single Judge. The said third party has already been impleaded as a respondent in SA and also as an opposite party in the civil revision. The applicant/appellant can make submissions before the appropriate forum.
6. The fate of the suit is not decided in this proceeding.
7. Accordingly, the appeal and the connected application being CAN 1 and CAN 2 of 2026 are disposed of.
8. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)