

06.05.2026
M/L No.11
Court No.12
(gc)

**MAT 2047 of 2025
CAN 1 of 2025**

**Dinesh Prasad Singh
Vs.
State Bank of India & Ors.**

Mr. Aniruddha Chatterjee, Sr. Adv.,
Mr. Rittick Chowdhury,
Mr. D. N. Maiti,
Mr. A. Santra

...for the Appellant.

Mr. Shiv Mangal Singh

...for the SBI.

Mr. Santanu Chatterjee,
Mr. Sudepto Kumar Basu,
Mr. Soumyak Bhattacharya

...for the Private Respondent.

1. Liberty is given to correct the classification of the memorandum of appeal.
2. The appeal has been preferred by the auction purchaser, who had an allegation against the State Bank of India with regard to the non-handing over possession of the auctioned property.
3. The learned Judge rejected the writ petition on the ground that the dispute was between the Apartment Owners' Association and the appellant and the same was private in nature.
4. Mr. Aniruddha Chatterjee, learned Senior Advocate for the appellant submits that the State Bank of India had sold the property to the appellant and it was the duty of the State Bank of India to ensure that the appellant could take over possession.
5. Mr. Chatterjee, learned Senior Advocate also submits that the question of payment of charges

due from the erstwhile owner, did not arise under the facts and circumstances.

6. The State Bank of India has shown us documents which indicate that the possession was handed over by the State Bank of India to the appellant sometime in March 12, 2025, and receipt was issued.
7. Mr. Santanu Chatterjee, learned Advocate for the Association submits that the sums assessed by the Apartment Owners' Association for the erstwhile owner's share of common expenses, shall constitute a charge on the apartment, prior to all other charges, and the Association is within its right to claim the same for the subsequent purchaser. The appellant was liable to pay the same.
8. It also appears that under Section 16 of the West Bengal Apartment Ownership Act, 1972, the purchaser of the apartment shall be jointly and severally liable with the vendor for all unpaid assessment against the later, for its share against the common expenses, upto the time of the sale.
9. Thus, the money payable to the Association is protected by the statute and can be claimed from the appellant. The appellant is also severally liable for the amount.
10. We find force in the argument of Mr. Santanu Chatterjee. However, the Association cannot physically obstruct the auction purchaser from entering into the property. The bank has already

handed over a possession letter pursuant to the sale under the SARFAESI Act, but actual possession is a sine qua non to the sale of the property in auction.

11. Under such circumstances, the Association will be at liberty to claim all dues in terms of the provisions of the West Bengal Apartment Ownership Act, 1972, by taking appropriate steps in accordance with law.
12. An auction purchaser purchases the property on as is, where is, whatever is basis. The dues are charge on the property, and are recoverable as per law. The Association also has to provide the basic amenities to flat owners and manage the property from the funds collected towards maintenance charges from the residents.
13. For the time being, we direct that the appellant to should pay a sum of Rs.6 lakhs to the Association, towards maintenance charges, etc. against the alleged dues. The Association shall not create any impediment or hindrance for the auction purchaser to enter into the property and enjoy the property, upon payment of Rs. 6 lakhs to the Association. Entry will be permitted as soon as the money is paid.
14. It is needless to mention that, the auction purchaser will continue to pay the current monthly maintenance charges within due date, as per the decision of the Association and as are payable by all

other flat owners on and from the month of May, 2026.

15. With regard to the remaining charges/dues in respect of the flat, the Association will be free to take such steps that are available in law.
16. Accordingly, the appeal and the connected application are disposed of.
17. There shall be no order as to costs.
18. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)