OD-1

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/524/2026

NAVIN KUMAR PODDAR
VS
THE REGISTRAR, DEBTS RECOVERY TRIBUNAL-I, KOLKATA AND ORS

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date : 4th November, 2026.
(Vacation Bench)

Appearance:
Ms. Nilanjana Adhya, Adv.
…for the petitioner

Ms. Parna Roy Chowdhury, Adv.
Ms. Trisa Chanda, Adv.
…for the respondent nos.2 &3

The Court: Affidavit of service filed in Court today be taken on record.

By an order dated October 28, 2026 the following directions were given:

> *"The learned Advocate appearing for the bank submits that due to lack of bidders, the auction sale fixed on 27th October, 2026 failed. She further submits that thereafter, no further auction sale notice has yet been issued. She further submits that the bank shall not take possession of the secured assets, in question till November 6, 2026. In the light of the aforesaid assurance given by the learned Advocate for the Bank and taking note of the fact that the learned arguing counsel for the bank is presently out of the country, list this matter on November 4, 2026 before the available Vacation Bench."*

The petitioner files a supplementary affidavit affirmed on October 4, 2026 to allege that on the same date when the previous order was passed a notice has been issued by the respondent bank for e-auction of the concerned party. The same is taken on record. The petitioner says that this is in sheer violation of the order dated October 28, 2026.

After hearing the parties and considering the materials on record I find that the order dated October 28, 2026 was passed to allow a limited protection to the petitioner since the petitioner had already filed an application under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "SARFAESI Act, 2002") which is pending.

It is now settled provision of law that the Debt Recovery Tribunal under Section 17 is the competent forum to adjudicate all issues between the borrower and the financial institution. The Writ Court can only entertain an application where the order or action of the bank and financial institute is per se without jurisdiction. No *prima facie* case appears that the action of the Bank is per se illegal or without jurisdiction to keep the writ petition pending. However, keeping in mind that a notice to conduct e-auction has been published on October 28, 2026 which on being given effect to will lead to accrual of third party rights and resulted in multiplicity of judicial proceedings, the following directions are given.

In such circumstances, since the e-auction sale is to take place on November 26, 2026 as per the notice dated 28th October, 2026, the same is kept in abeyance and the respondent bank is directed not to take any step or

further steps in terms of the said e-auction notice dated October 28, 2026 till November 19, 2026. The concerned Debts Recovery Tribunal is directed to hear out the application under Section 17 of the SARFAESI Act, 2002 along with all connected and interim applications, if any, as expeditiously as possible but prior to November 19, 2026 so that if the Tribunal finds that the e-auction sale under the notice dated October 28, 2026 is required to be proceeded with there will be no inconvenience on the part of the respondent bank. In the event, the Tribunals finds that the action on the part of the bank is required to be interfered with the Tribunal shall be free to do so and pass appropriate orders.

It is made clear that this Court has not considered the merits of the matter or the inter se right between the parties but has passed this order only as an interim measure during the vacation.

The Tribunal shall, therefore, not be influenced by any observation made herein and shall deal with the issues raised before it independently.

WPO/524/2026 stands disposed of.

(ARINDAM MUKHERJEE, J.)

T.O./S.Bag
(A.R.C.R)