

OD 4

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/299/2025
IA NO: GA/1/2025, GA/2/2025

BHANU PROPERTIES & ANR.
VS.
RESERVE BANK OF INDIA & ANR.

BEFORE :

THE HON'BLE JUSTICE RAJASEKHAR MANTHA
And
THE HON'BLE JUSTICE RAI CHATTOPADHYAY
Date : 18th May, 2026

Appearance :

Mr. Deepan Sarkar, Adv.
Mr. Ramendu Agarwal, Adv.
Ms. Dipti Priya, Adv.
Ms. Tanish Ganeriwala, Adv.
...for appellant

Ms. Soni Ojha, Adv.
Mr. Pranit Biswas, Adv.
...for respondent no.2

Ms. Suchismita Ghosh, Adv.
Ms. Aradhita Banerjee, Adv.
...for the respondent no.1

1. The instant appeal is directed against the judgement and order dated 26th August, 2025 passed by a Single Bench of this Court.
2. The writ petition was the second proceeding taken up by the appellant against Axis Bank. The first writ petition filed being WPO 1805 of 2023 challenged the declaration of the accounts of the appellant as a Non Performing Asset (NPA) and a notice under Section 13(2) of the SARFAESI Act, 2002.
3. In the said writ petition, an interim order was initially passed by a Single Bench of this Court staying the actions of the Bank. It is wholly ununderstood as to how a Writ Court could interfere with a proceeding initiated by the Bank in accordance with law under the provisions of the SARFAESI Act, 2002. This is so particularly in the backdrop of the settled law that challenge to notice issued under the SARFAESI Act, 2002 must be made in accordance, inter alia, with the provisions of Section 17 of the Act of 2002.
4. Be that as it may, the writ petition was dismissed and a proceeding was launched by the Bank under the RBI Master Circular dated 1.7.2016 to declare the appellant's account as a fraudulent.
5. A show-cause notice dated 30th December, 2023 was issued by the Bank to the appellant under the aforesaid Master Circular asking the appellant as to why its account should not be declared as fraudulent. In response to such show-cause notice, the appellant sought for the

documents. The appellant was found having made serious misrepresentations in the reports of stocks Hypothecated to the Bank. The misrepresentations had this effect of extinguishing the said security of the Bank.

6. Prior thereto, the auditors of the bank confronted the appellant with several audit reports and discrepancies found therein that amounted to fraudulent representation by the appellant. The auditors have confirmed supply of three forensic audit reports of the Bank dated 26.3.2018, 11.6.2018 and 30.4.2022. The said stock audit reports were sent to the appellant vide e-mail dated 11.12.2023.
7. On receiving report from the auditors on 26.12.2023, the Axis Bank issued the aforesaid show-cause notice dated 30.12.2023.
8. The appellant did not communicate any formal objection to the show-cause notice. It is argued by the Counsel for the appellant that since the show-cause notice itself was challenged before this Court in the Writ Petition, his clients had chosen not to respond to the same.
9. During the pendency of the writ petition, finding no reply to the show-cause notice, the Axis Bank passed the impugned order sent to the appellant under cover of its letter dated 5th March, 2024 declaring its account as fraudulent.
10. Learned Counsel for the appellant argued before this Court that firstly, after filing and disposal of the first writ petition and during the

pendency of the second writ petition, an OTS settlement was entered into by the appellant with the respondent Bank. As against a claim for Rs.3.72 Crore, the Bank settled the loan account of the appellant for a sum of Rs.2.40 Crore. The appellant has paid off the entire sum of Rs.2.40 Crore.

11. The appellant further claims to have paid a sum of Rs.1.92 Crore post issuance of the Notice under Section 13(2) of the SARFAESI Act, 2002. His client, therefore, could not have been declared a fraudster under the aforesaid Master Circular of the RBI.
- 12.** It is next argued that the order declaring the accounts of the appellant as fraudulent, has been passed in violation of the principles of natural justice as enumerated by the Supreme Court in the case of ***State Bank of India & Ors. vs. Rajesh Agarwa & Ors.***, reported in **(2023) 6 SCC 1**.
13. It is lastly argued by reference to the decision of Indian Commodity Exchange Limited vs. Neptune Overseas Limited & Ors., reported in (2020) 20 SCC 106. In the said case non-supply of documents in a proceeding before the Securities Appellate Tribunal at Mumbai and a short adjournment granted by the appellant therein to go through 4000 pages of documents disclosed was held insufficient and violation of the principles of natural justice, was found.

14. This Court has carefully heard the arguments advanced by the learned counsel for the appellants and the respondents.
15. The sheet anchor of the argument of the learned counsel for the appellants is non-supply of a stock audit report dated 30th March, 2023 that formed part of the final order declaring the appellants as fraudsters under the aforesaid Master Circular.
16. Indeed, as has been held in the *State Bank of India* case (*supra*), the principles of natural justice are required to be read into a quasi judicial proceeding even if not specified in the rules prescribed for such purpose.
17. A different scenario appears in the instant case.
18. The appellant was found submitting misleading stock audit reports from 2018 till 30th April, 2022. The suppression, misleading and the misrepresentation in the stock report was such that could have seriously exposed the Bank to the risk of being left without security. This by itself is the fraudulent conduct alleged against the appellants/borrowers, even assuming that the last stock audit report dated 30th March, 2023 was not supplied to the appellants.
19. This Court notices that the stock statements which were analysed in the forensic auditors of the Bank, at all material times were in the possession of the appellants. The appellants not having challenged the initial show-cause or formally asked for any documents and any

forensic stock audit report from the respondents would demonstrate that the appellants were not prejudiced in any way by non-supply of any of the forensic stock audit report.

20. It is now well settled that not every violation of the principle of natural justice would vitiate a proceeding including a quasi judicial proceeding. A person affected by such non-supply of documents or violation of any of the principles of natural justice must clearly demonstrate the prejudice caused to him. Reference in this regard is made to the case of ***State Bank of Patiala & Ors vs. S.K. Sharma*** reported in **AIR 1996 SC 1669**.
21. One need not go to the extent of invoking the doctrine of prejudice in the instant case.
22. The appellants have chosen not even to reply to the show-cause issued to them under the aforesaid Master Circular dated 1st July, 2016. The appellants, therefore, could not have been seriously prejudiced for non-supply of one forensic stock audit report dated 30th March, 2023 in the backdrop of having received a majority of such reports for the period from March 2018 till 30th April, 2022.
23. The other argument advanced by learned counsel for the appellants is that his clients have repaid all the dues of the Bank and have been issued a No Due certificate.

24. Declaration of the appellants' action as fraudulent under the aforesaid Master Circular would result in a commercial death of the appellants which will debar his clients from availing loans from banks and financial institutions for a period of five years from the date of such declaration. This civil consequence of the appellants would be rather draconian proposition, reliance is placed on the aforesaid *State Bank of India and Others* decision (supra) and the cases of **Suresh C Singal and Others vs. State of Gujarat and Ors**, reported in **2025 SCC OnLine SC 788** and the case of **N. S. Gnaneshwaran Etc. vs. Inspector of Police and Another**, reported in **2025 SCC OnLine SC 1257**.
25. Indeed the consequences of being declared a fraudster under the aforesaid Master Circular has serious civil and commercial consequences of the appellants.
26. It is now well settled both under the Master Circular of the Reserve Bank declaring a borrower as a wilful defaulter and the Master Circular declaring a borrower as a fraudster have wide ranging civil consequences and may also result in criminal proceedings. There are no criminal proceedings against the appellants instituted by the Bank till date, nor contemplated in such proceedings.

27. The aforesaid *Suresh C Singal* and *N. S. Gnaneshwaran Etc.*, the decision relied upon by learned counsel for the appellants would have no application in the facts of the case.
28. Repayment of a banker's debt would not in any way extinguish an act on the part of a borrower in putting the Bank into financial risk jeopardising its security. Such actions as in the instant case could go both ways, i.e. leaving unpaid debts. Even if a debt is repaid, the fraudulent conduct of a borrower as found by the Bank in the instant case, would not get eclipsed. The OTS scheme was agreed upon by and between the Bank and the borrower, does not and cannot compel the bank against proceeding under the Master Circular of the RBI dated 1st July, 2016.
29. A show-cause notice was already issued. The OTS settlement between the appellants and the Bank is completely silent with regard to the proceedings under the aforesaid Master Circular of the RBI. It is quite possible in a given scenario that a Bank or financial institution may settle for loans. This cannot absolve the borrower from application of the consequences under the aforesaid Master Circular dated 1st July, 2016. The object and purpose of the Master Circular dated 1st July, 2016, inter alia, factors in a deterrence for recalcitrant borrowers from attempting to mislead Banks and financial institutions into lending and continuing to lend money.

30. This Court does not wish to pronounce on the subject any further as already discussed above that fraudulent actions do not get eclipsed by repayment of the Bank's dues.
31. In the backdrop of the aforesaid discussions, this Court does not find any reason to interfere with the impugned judgment and order passed by a Single Bench of this Court and the same is affirmed.
32. APOT/299/2025 is dismissed.
33. There shall, however, be no order as to costs.

(RAJASEKHAR MANTHA, J.)

(RAI CHATTOPADHYAY, J.)