



## CASE STUDY

### Background:

Default by the borrower (borrower and guarantor-hereinafter referred as “the respondent”)..... Recovery proceedings initiated by bank..... Auction Sale conducted by the Debts Recovery Tribunal (DRT) in recovery proceedings..... Dispute relates to concluded auction sale subject to revaluation years after its confirmation and right of buyer in auction sale (hereinafter referred as “the appellant”).

### Facts

1. Indian Bank extended an “At Par Facility” in respect of the cheques issued by them to a company (hereinafter referred as “the borrower”) on the guarantee that “the borrower” would maintain a cushion fund at all times during the subsistence of the agreement with the bank.
2. However, “the borrower” was irregular in maintaining the cushion funds without following the conditions of the agreement. In many instances there was a shortfall of funds in the account of “the borrower” to honour the cheques. Even so, the bank continued to honour the cheques presented.
3. Due to persistent defaults and shortfall in funds, “the borrower” became liable to the bank for substantial outstanding dues.
4. To secure the facility, the guarantors created equitable mortgages over several immovable properties for the shortfall of ‘at par facility’ enjoyed by “the borrower”.
5. The bank insisted “the borrower” to make payment of the shortfall arising from the presentation of the cheques issued by them and accordingly sent a legal notice.
6. Upon failure of repayment, the bank-initiated recovery proceedings before the DRT seeking recovery of outstanding dues along with interest.
7. The DRT passed a final order *inter alia* holding that the bank was entitled to a Recovery Certificate against “the borrower and the guarantors”, jointly and severally along with simple interest from the date of default till realisation, along with costs.
8. Thereafter, the DRT, passed an order of attachment on and issued “the Proclamation of Sale”. A valuation report was obtained and a public auction was conducted after issuance of a proclamation of sale. Subsequently, the auction was held and the appellant was the successful bidder among the sixteen bidders. Advance was received towards the total sale consideration from the appellant for the purchase of the mortgaged properties.
9. Pursuant thereto, the DRT confirmed the sale of the attached properties, and a Sale Certificate was duly executed in favour of the appellant and the certificate was duly registered.
10. The Debt Recovery Appellate Tribunal (DRAT) affirmed the order of the DRT that the defaulters cannot take advantage of their internal disputes and that the banks are custodians of public money. The interest of the third-party bidder purchaser should also be protected, who had spent considerable sum as a bona fide purchaser.
11. The High Court disposed of the appeal while holding that there was an equitable mortgage and since the amounts were not repaid, the bank was entitled to recover the dues from “the borrower” and the guarantor jointly and severally, and liquidate the assets to satisfy the outstanding amounts.
12. The High Court upheld the conclusion arrived at by the DRT and DRAT, while remitting the case to the DRT for the limited purpose of valuation of the properties which were the subject matter in the recovery

proceedings and observed that if the properties were found to have been sold at a lower value, appropriate directions could be issued.

13. Aggrieved by the remand on the issue of valuation, the appellant approached the Supreme Court.

***It is in these circumstances that the appellant has come up with the present appeal before the Apex Court.***

#### **Arguments on behalf of the Appellant (Auction Buyer)**

- The appellant's grievance is confined to a limited part of the High Court's judgment. Although the High Court upheld the validity of the auction sale, recognized the appellant's rights as the successful auction purchaser, and affirmed the Bank's right to recover its dues by selling the mortgaged properties, it nevertheless directed the Debt Recovery Tribunal (DRT) to undertake a fresh valuation of the properties almost ten years after the auction had been completed without providing reasons for ordering such revaluation.
- Revaluation after more than a decade would be speculative and cause serious prejudice. The sale was confirmed based on the valuation report which was never challenged by the respondents. Once a sale has been confirmed, it should not ordinarily be disturbed except in cases involving fraud or material irregularity.
- Without prejudice to the above submissions, it was submitted that if this Court were inclined to unsettle the auction, the appellant no longer has any commercial interest in retaining the property, having suffered prolonged financial loss. It was therefore prayed that the appellant be permitted to return the property to the DRT, and that the entire sale consideration paid by him be refunded together with interest and the expenses incurred thereon.

#### ***Arguments on behalf of the Respondents (Borrowers / Guarantors)***

1. The auction sale conducted pursuant to Recovery Certificate is itself illegal and non est in the eye of law.
2. The appellant failed to comply with the mandatory requirements governing auction sales, inasmuch as he neither paid 25% of the bid amount on the date of auction nor remitted the balance 75% within 15 days. Consequently, no valid sale ever came into existence and the appellant acquired no right, title, or interest in the subject properties.
3. The recovery certificate was subsequently withdrawn, affecting the validity of consequential proceedings.
4. The purchaser allegedly abandoned his interest in the property and had previously sought refund of the sale consideration.

5. The auction sale was claimed to be void and incapable of conferring valid title.
6. The valuation and reserve price fixation required closer scrutiny to determine whether the properties had been sold below their actual value.

#### ***Arguments by the Bank***

1. The auction sale in the present case was not conducted under the provisions of the SARFAESI Act, 2002, but was carried out by the Debts Recovery Tribunal in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the procedure prescribed under Rules 38 and 52(2) of the Second Schedule to the Income Tax Act, 1961, which govern recovery proceedings before the Recovery Officer.
2. It was further submitted that the sale process was conducted in a transparent and lawful manner, strictly in accordance with the statutory procedure.
3. The valuation report was considered before fixing the reserve price.
4. Although there was some delay on the part of the appellant in depositing the balance sale consideration, such delay was duly condoned by the DRT. Thereafter, upon payment of the entire bid amount, the sale was confirmed by the DRT and the sale certificate was subsequently issued in favour of the appellant in accordance with law. The said sale has thus attained finality.

#### **Core Legal Issues**

1. Whether an auction sale once concluded by DRT can be subjected to reconsideration of valuation and reserve price many years after confirmation of the sale?
2. Whether the rights of a bona fide auction purchaser override concerns regarding adequacy of valuation of secured assets?

**Now decide the above legal issues in light of the facts and submissions made.**

#### ***Disclaimer***

***The case study has been framed based on publicly available legal principles with necessary modifications and fictionalisation of names to enable professionals to apply their analytical skills. Any resemblance to actual cases is purely coincidental.***

**Winner of Case Study – May 2026**

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