

Sunil Prabhudas Patel & Ors. v. RBL Bank Ltd.

Sunil Prabhudas Patel & Ors.

...Appellant

RBL Bank Ltd.

...Respondent

Case No: Appeal No. 41/2023

Date of Judgement: 16/08/2023

Judges:

Mr Justice Ashok Menon, Chairperson

For Appellant: Mr Sandeep C. Bhatt, Advocate.

For Respondent: Mr Rajesh Nagory, i/b Mr Meghnath Navlani, Advocate.

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Facts:

This case pertains to an appeal (Appeal No. 41/2023) filed by the borrowers (Appellants) before the Debts Recovery Appellate Tribunal, Mumbai, challenging the dismissal of Securitisation Application (S.A.) No. 103 of 2023 by the Debts Recovery Tribunal-I, Ahmedabad (D.R.T.). The appeal was filed against RBL Bank Ltd. (Respondent/Bank) under Section 18 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (SARFAESI Act). The Respondent Bank had initiated proceedings under the SARFAESI Act against the Appellants (borrowers) for recovery of their outstanding dues. As per the order dated 03/04/2023 of the Debts Recovery Appellate Tribunal, the Appellants were directed to deposit a sum of ₹3 crores as mandatory pre-deposit payable in instalments. It was further ordered that upon payment of the first instalment, the Appellants shall be entitled to a stay of further SARFAESI measures

intended to be taken by the Respondent Bank. Before the payment of the first instalment of the pre-deposit by the Appellants, the Respondent Bank had already auctioned one of the secured assets (Flat No. 302 in Saumya 3 Apartment) on 07/03/2023, and Manubhai Khatri was declared as the highest successful bidder. The entire sale consideration was deposited by Manubhai Khatri, and the Sale Certificate was issued to him on 18/04/2023. Physical possession of the property was also handed over to him on 19/04/2023. The Respondent Bank filed an application (I.A. No. 352/2023) seeking permission from the Debts Recovery Appellate Tribunal to register the Sale Certificate issued in favour of Manubhai Khatri (auction purchaser) with the registering authorities under the Registration Act, 1908.

Arguments by the Parties:

Arguments by the Respondent Bank (Applicant):

The issuance of the Sale Certificate was prior to the deposit of the first instalment of the mandatory pre-deposit on 21/04/2023 by the Appellants. The registration of the Sale Certificate is merely a formality/compliance as per the provisions of the Registration Act, 1908, in furtherance of the successful completion of the sale of the property conducted on 07/03/2023. The registration is to be completed within four months of the issuance of the Sale Certificate.

Arguments by the Appellants:

The Respondent Bank has violated the orders of the Debts Recovery Appellate Tribunal by not complying with the order to not proceed with further SARFAESI measures. The Sale Certificate issued by the authorized officer in the sale conducted as per the provisions of the SARFAESI Act is not required to be registered. Reliance was placed on the following cases: a) B. Arvind Kumar vs. Government of India & Ors. (MANU/SC/2834/2007): When a property is sold in a public auction pursuant to an order of the court, and the bid is accepted and confirmed by the court in favour of the purchaser, the sale becomes absolute, and the title vests in the purchaser. b) Inspector General of Registration & Anr. Vs. G. Madhurambal & Anr. [Petition for Special

Leave to Appeal (C) No. 16949/2022]: Relying on the Supreme Court's decision in Esjaypee Impex Pvt. Ltd. Asst. General Manager and Authorised Officer, Canara Bank (2021) 11 SCC 537, it was observed that the mandate of law under Section 17(2)(xii) read with Section 89(4) of the Registration Act, 1908, only required the Authorized Officer of the bank under the SARFAESI Act to hand over the duly validated Sale Certificate to the auction purchaser, with a copy forwarded to the Registering Authorities to be filed in Book I as per Section 89 of the Registration Act. Once this direction is issued, it has the same effect as registration and obviates the requirement of any further action.

Court's Elaborate Opinions:

The Debts Recovery Appellate Tribunal acknowledged the argument of the Appellants' counsel that the registration of the Sale Certificate is not required. However, it also noted that an intimation has to be given regarding the sale under Section 17(2)(xii) read with Section 89(4) of the Registration Act, 1908. These provisions require the Authorized Officer of the Bank under the SARFAESI Act to hand over the duly validated Sale Certificate to the auction purchaser, with a copy forwarded to the registering authorities to be filed in Book I. Even if the argument of the Appellants' counsel that no registration is required is accepted, the act of forwarding a copy of the Sale Certificate to the registering authorities will not be tantamount to an infringement of the orders of the Debts Recovery Appellate Tribunal. Such an act on the part of the Authorized Officer of the Bank will definitely not be in violation of the prohibitory order passed by the Tribunal in the order dated 03/04/2023. Therefore, the prayer in the application was allowed, and the Authorized Officer of the Applicant Bank was permitted to forward a copy of the Sale Certificate issued to the auction purchaser to the registering authority to be filed in Book I in accordance with Section 89 of the Registration Act.

Cases Cited:

B. Arvind Kumar vs. Government of India & Ors. (MANU/SC/2834/2007)

Inspector General of Registration & Anr. Vs. G. Madhurambal & Anr.
[Petition for Special Leave to Appeal (C) No. 16949/2022]

Esjaypee Impex Pvt. Ltd. Asst. General Manager and Authorised Officer,
Canara Bank (2021) 11 SCC 537

Sections and Laws Referred:

Section 18 of the Securitisation & Reconstruction of Financial Assets
& Enforcement of Security Interest Act, 2002 (SARFAESI Act)

Section 17(2)(xii) of the Registration Act, 1908

Section 89(4) of the Registration Act, 1908

In summary, the Debts Recovery Appellate Tribunal allowed the application filed by the Respondent Bank, permitting the Authorized Officer to forward a copy of the Sale Certificate issued to the auction purchaser to the registering authority, to be filed in Book I as per Section 89 of the Registration Act, 1908. The Tribunal held that this act would not violate the previous order restraining the Bank from taking further SARFAESI measures against the Appellants (borrowers).