

**BEFORE THE DEBTS RECOVERY**  
**APPELLATE TRIBUNAL, AT: MUMBAI**

**Present: Mr Justice Ashok Menon, Chairperson**

**I.A. No. 352/2023**

**In**

**Appeal No. 41/2023**

**Between**

RBL Bank Ltd.

...Applicant/Org.  
Respondent

**In the matter of**

Sunil Prabhudas Patel & Ors.

... Appellant/s

V/s.

The Authorised Officer, RBL Bank Ltd.

...Respondent/s

Mr Rajesh Nagory, i/b Mr Meghnath Navlani, Advocate for  
Applicant/ Org. Respondent Bank.

Mr Sandeep C. Bhatt, Advocate for Appellants.

**:- Order dated: 16/08/2023:-**

This is an application filed by the Respondent Bank seeking permission for registration of the Sale Certificate issued in favour of the auction purchaser namely Manubhai Khatri in the auction sale conducted by the authorised officer of the bank with respect to the secured asset which is the subject matter of this appeal filed by the Appellants challenging the dismissal of the Securitisation Application (S.A.) No. 103 of 2023 by the Debts Recovery Tribunal-I, Ahmedabad (D.R.T.) before this Tribunal under section 18 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (“SARFAESI Act”, for short).

2. The Appellants are the borrowers against whom the Bank is proceeding under the provisions of the SARFAESI Act. For entertaining the appeal, the Appellants had filed an application under section 18 (1) of the SARFAESI Act for waiver of the mandatory pre-deposit as I.A. No. 206 of 2023. Vide order dated 03/04/2023, this Tribunal had directed the Appellants to deposit a sum of ₹3 crores as mandatory pre-deposit payable instalments. It was further ordered that on payment of the 1<sup>st</sup> instalment, the Appellants shall be entitled to a stay of the further Sarfaesi measures intended to be taken by the Respondent Bank. Certain items of the properties were already sold and the above-mentioned Manubhai is one of the purchasers. The Appellants have complied with the direction to make a pre-deposit and the appeal has been taken on file.

3. In the present application it is stated that flat No. 302 admeasuring 137.95 m<sup>2</sup> on the 3<sup>rd</sup> floor of the scheme known as “Saumya 3” of Muni Apartment Owners’ Association situated at plot No. 27/A of Town Planning Scheme No. 4 of Mauje, Rajapur Hirpur of Taluka Maninagar of the street Ahmedabad was auctioned on 07/03/2023 and the aforesaid Manubhai was declared as the highest successful bidder. The entire sale consideration was deposited by the bidder 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. It is submitted that the issuance of the Sale Certificate was prior to the deposit of the 1<sup>st</sup> instalment of the mandatory pre-deposit on 21 April 2023. However, the Sale Certificate could not be registered in favour of the successful bidder. It is submitted that the registration of the Sale Certificate is merely a formality/compliance as per provisions of the Registration Act, 1908 in furtherance of the

successful completion of the sale of the property conducted on 07/03/2023. It is also submitted that the registration is to be completed within four months of issuance of the Sale Certificate. Hence, the Applicant Bank has filed this application seeking permission from this Tribunal to get the Sale Certificate registered under the provisions of law.

4. The Appellants have vehemently opposed the application stating that the Respondent Bank has violated the orders of this Tribunal by not complying with the order not to proceed with the further Sarfaesi measures. It is also contended that the Sale Certificate issued by the authorised officer in the sale conducted as per the provisions of the statute is not required to be registered. The Ld. Counsel appearing for the Appellants has relied on several decisions to support his submission. The decisions which are relevant are, *B. Arvind Kumar vs. Government of India & Ors. MANU/SC/2834/2007* wherein the Hon'ble Supreme Court has observed that when a property is sold in a public auction in pursuance to an order of the court and the bid is accepted and the court in favour of the purchaser confirms the sale, the sale becomes absolute and the title vests in the purchaser. In *Inspector General of Registration & Anr. Vs. G. Madhurambal & Anr. Petition for Special Leave to Appeal (C) No. 16949/2022* relying upon an earlier decision of the Apex Court in *Esjaypee Impex Pvt. Ltd. Asst. General Manager and Authorised Officer, Canara Bank (2021) 11 SCC 537* it was observed thus:

“The mandate of law in terms of section 17 (2) (xii) read with section 89 (4) of the Registration Act, 1908 only required the Authorised Officer of the bank under the SARFAESI Act to hand over the duly validated Sale Certificate to the auction purchase are with the copy forwarded to the Registering Authorities to be filed in

Book I as per section 89 of the Registration Act and order of this Court in MA No. 19262/2019 dated 29/10/2021 opining that once a direction is issued for the duly validated Certificate to be issued to the auction purchaser with the copy forwarded to the registering authorities to be filed in Book I as per section 89 of the Registration Act. It has the same effect as registration and obviates the requirement of any further action.”

5. The argument of the Ld. Counsel appearing for the Appellants that registration of the Sale Certificate is not required is true but it is equally true 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 which requires the Authorised 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 Ld. Counsel appearing for the Appellants is to be accepted that no registration is required, the act of forwarding a copy of the Sale Certificate to the registering authorities will not be tantamount to infringement of the orders of this Tribunal. Such an act on the part of the Authorised Officer of the Bank will definitely not be in violation of the prohibitory order passed by this Tribunal in the order dated 03/04/2023. Hence, the prayer in the application is only to be allowed, and I do so.

6. I.A. No. 352/2023 is allowed and the authorised officer of the Applicant Bank is at liberty 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.

Sd/-  
Chairperson