

15.10.2026
Item No.11
Ct. No.446
tkm

WPA 30573 of 2026
Amit Paul & Anr.
- Versus -
Reserve Bank of India & Ors.

Mr. Uday Narayan Betal
Mr. Suman Saha
Mr. M Patra
Mr. S Saha

....for the petitioners

Mr. Sayak Ranjan Ganguly
Ms. Srijani Ghosh
Ms. Simrin Hussain

.... for respondent nos. 2 & 3

1. By preferring the present writ petition, the petitioners have prayed for an order for setting aside and/or quashing the e-auction dated 8.1.2026 and the sale certificate dated 23.2.2026 issued in favour of the auction purchaser.
2. Mr. Betal, learned advocate for the petitioners, submits that the petitioners and husband of the respondent no. 4 entered into a partnership agreement and applied for grant of excise licence to operate one liquor shop business. Thereafter, the petitioners approached the Bandhan Bank to obtain a credit facility creating equitable mortgage over a property belonging to the petitioners. However, upon the petitioners being failed in adhering to the repayment schedule, the loan account was classified as 'Non Performing Asset' and subsequently the secured creditor initiated action under the Securitisation and Reconstruction of Financial Assets and Enforcement

of Security Interest Act, 2002 (for short, the SARFAESI Act) and held an auction process and sold out the said property in favour of the auction purchaser and issued a sale certificate also. He submits that the said property is a valuable property and approximate value of the said property as on date would stand Rs. 85 lakh. But the same has been sold out at Rs. 16 lakhs and odd. He submits that sale of such property at such a lower price constitutes justification for this court to interfere with this petition. He submits that the husband of the respondent no. 4 has committed fraud upon the petitioners. Petitioners received a notice under section 13(2) of the Act. Ultimately the secured creditor proceeded based on another notice dated 27.12.2024 issued under section 13(2) of the Act.

3. Mr. Betal submits that since question of fraud is involved, tribunal in exercise of power under section 17 of the Act cannot go into that question and the civil court would be the appropriate forum. However, there may be possibility that the civil court may not entertain the suit citing the provisions of section 34 of the Act. He submits that as the question of fraud is involved, the tribunal also may not entertain the application and cannot address that question while exercising power conferred upon it under section 17 of the Act. He prays for a direction upon the respondent bank to cancel the sale certificate and the e-auction.

4. In rebuttal, Mr. Ganguly, learned advocate representing the respondent submits that the petitioners have two options. If they find that the question raised in the writ petition can be decided by the civil court they can approach the competent civil court having jurisdiction to entertain the same and if they find that the question raised by the petitioners in the present case can be addressed by the tribunal, they can prefer an application under section 17 of the Act. However, without exhausting the effective statutory alternative remedy, the petitioners have filed the present writ petition which according to him, is not maintainable.
5. In course of hearing Mr. Betal submits that the period of limitation prescribed for preferring the application under section 17 of the Act has already been expired and as such, the petitioners can be given liberty to file an application for condonation of delay. He submits that the limitation as prescribed under sub-section 1 of section 17 of the Act will start from the date, the irregularity regarding the auction process came to the knowledge of the petitioners. In support of such contention he referred to an unreported decision of the Hon'ble Division Bench of this court in APO 95 of 2025 (M/s. Superb Drugs Pvt. & Ors. Vs. IDBI Bank & Anr.)
6. Having regard to the facts and circumstances of this case and the submission advanced by the respective parties and particularly the stand taken by the learned advocate for the petitioners that they are inclined to approach the

tribunal to ventilate their grievances, this court is not inclined to entertain the present petition and the same is accordingly, dismissed.

7. However, this order shall not preclude the petitioners from approaching the appropriate forum to ventilate their grievances, in accordance with law.

(Partha Sarathi Chatterjee, J.)