IN THE HIGH COURT AT CALCUTTA

(Constitutional Writ Jurisdiction)

ORIGINAL SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.O. No. 704 of 2025

With

GA No. 1 of 2026

Kejriwal Miining Pvt. Ltd. & Anr.

Vs.

Indian Bank & Ors.

Mr. Jishnu Saha, Sr. Adv.
Mr. Aniruddha Mitra, Sr. Adv.
Mr. Debdut Mukherjee
Mr. Ishaan Saha
Mr. Kaushik Banerjee
Ms. Rashmita Sen
Ms. Sarbani Ghosal
Mr. Rajarshi Banerjee

....For the petitioners.

Ms. Deblina Lahiri
Ms. Moumita Sharma
Mr. Mrinmoy Chatterjee

....For the SBI.

Mr. Dilip Kr. Kundu
Mr. Arjun Basu
Ms. Aditi Biswas

....For the RBI.

Mr. Jishnu Chowdhury, Sr. Adv.
Mr. Andolan Sarkar
Mr. Rajdeep Mantha
Mr. Anurag Bagaria

....For applicants in
GA 1/2026.

Ms. Soni Ojha
Ms. S. B. Chatterjee
Mr. Pranit Biswas

....For the CIBIL.

Hearing Concluded On : 24.09.2026

Judgment Delivered On : 16.11.2026

Judgment Uploaded On : 16.11.2026

Krishna Rao, J.:

1. The Petitioners have filed the instant writ petition praying for rectification of the classification of "Loss" in respect of the Petitioner No. 1 Company's Cash Credit Account No. 50018621165 and Term Loan Account No. 50022869927 in the CIBIL Report, and for restoration of the Petitioner No. 1 Company's CIBIL score.

2. Mr. Jishnu Saha, Learned Senior Advocate, representing the Petitioners, submits that in or about 2009, the Petitioners were approached by the representatives of the Respondent No. 1 Bank to avail credit facilities for their business purposes. Subsequently, the Petitioners agreed, and the Respondent No. 1 Bank sanctioned a cash credit facility and a term loan to the Petitioners. However, owing to certain defaults in the regular repayment of the credit and loan facilities, the said loan account was declared as Non-Performing Asset on March 31, 2011.

3. Mr. Saha submits that the Petitioner No. 1, namely, Kejriwal Miiniing Private Limited, formerly known as Parijat Vyapaar Private Limited, adopted its present name by virtue of an Extraordinary General Meeting held on August 27, 2016. He further submits that, as the Petitioners intended to liquidate their dues towards the Respondent No. 1 Bank, they proposed a One-Time Settlement to the Respondent No. 1 Bank vide a proposal dated January 8, 2015.

4. Mr. Saha submits that by a letter dated March 16, 2015, the Respondent No. 1 Bank approved the compromise offer of Rs. 4,11,02,726/-, which has been described as a “One Time Settlement” (OTS). The settled amount was to be liquidated by a down payment of 5%, amounting to Rs. 20,55,136/-, and the balance by 19 Equated Quarterly Instalments (EQI) of Rs. 26,21,586/- each. Interest was to be applied and realised at the Base Rate (floating) on the reducing balance

from January 19, 2015 (date of approval) up to the last date of payment of the entire compromise sum.

5. Mr. Saha submits that the Petitioners fully repaid the compromise sum of Rs. 4,11,02,726/- by August 11, 2020, including by way of assigned LIC policies aggregating Rs. 1,33,78,330/-, which were encashed by the Respondent No. 1 Bank and the proceeds adjusted towards the dues. He further submits that the Petitioners had deposited Title Deed No. 7827 of 2009 as collateral, which was examined by the Respondent No. 1 Bank's own Empanelled Advocate, namely, Shri Abdul Ahid Sarkar, and certified as genuine by his opinion dated September 07, 2022.

6. Mr. Saha submits that while negotiations for the OTS were ongoing, the Respondent No. 1 Bank issued a Show Cause Notice dated April 06, 2019, alleging that the Petitioners were wilful defaulters, without supplying any supporting documents. He further submits that by a communication dated January 18, 2020, the Respondent No. 1 Bank purported to declare the Petitioners wilful defaulters with retrospective effect from July 03, 2019.

7. Being aggrieved and dissatisfied by the action of the respondent no.1 bank, the petitioners have filed a Writ Petition before this Court being W.P.O. No. 78 of 2020 but this Court dismissed the said writ petition. The petitioners have preferred an appeal being A.P.O. No. 72 of 2020 and the Appellate Court had disposed of the said appeal by an order

dated 22nd August, 2022 by setting aside the order passed by the respondent no.1 bank.

8. Mr. Saha submits that by a letter dated February 25, 2022, the Petitioner No. 1 Company informed the Respondent No. 3 about the erroneous reflection of the accounts in the CIBIL Report of the Petitioner No. 1 Company, as maintained by the Respondent No. 1 Bank. He further submits that by a letter dated September 10, 2022, the Petitioner No. 2 requested the Respondent No. 1 Bank to withdraw the classification of the account as "fraud", as the title deed is not fake; however, the Respondent No. 1 Bank has never changed the remarks against the accounts, which are shown as "Loss".

9. Mr. Saha submits that, in spite of repeated representations made by the Petitioners to the Respondent Nos. 1 and 3 on July 03, 2025; July 04, 2025; July 12, 2025; July 15, 2025; July 31, 2025; August 04, 2025; August 05, 2025 and August 06, 2025, no corrective action has been taken by any of the Respondents.

10. Mr. Saha refers to Section 21(3) of the Credit Information Companies (Regulation) Act, 2005 (hereinafter referred to as "Act of 2005") and submits that, in view of the first proviso, a Credit Information Company can make a correction, deletion or addition in the credit information after such correction, deletion or addition has been certified as correct by the concerned credit institution. He further submits that the second proviso indicates that the right over credit information is solely that of

the concerned bank or financial institution. Therefore, in view of Section 21(3) of the Act of 2005, the updating of credit information is a statutory right of a borrower or client of a Credit Institution.

11. Mr. Saha submits that time is not the essence of the compromise and did not permit the compromise to be revoked, rescind or withdrawn in the event of any delay on the part of the petitioner no.1 in making payment, and instead provided for compensating the bank by payment of interest for the period of such delay. He has relied upon the Section 55 of the Indian Contract Act, 1872 and submits that the contract does not become voidable by the failure to do such thing at or before the specified time, but the promisee is entitled to compensation from the promisor for any loss occasioned to him by such failure.

12. Mr. Saha has relied upon the judgment in the case of ***M/s. Hind Construction Contractors by its Sole Proprietor Bhikamchand Mulchand Jain (Dead) By LRs. Vs. State of Maharashtra*** reported in ***(1979) 2 SCC 70*** wherein the Hon'ble Supreme Court held that if the contract were to include clauses providing for extension of time in certain contingencies or for payment of fine or penalty for every day or week the work undertaken remains unfinished on the expiry of the time provided in the contract such clauses would be construed as rendering ineffective the express provision relating to the time being of the essence of contract.

13. Mr. Saha further relied upon the judgment in the case of ***Chand Rani (Smt.) (Dead) By LRs. Vs. Kamal Rani (Smt.) (Dead) by LRs.*** reported in ***(1993) 1 SCC 519*** wherein the Hon'ble Supreme Court has relied upon the judgment in the case of ***Hind Construction (supra)***.

14. Ms. Deblina Lahiri, Learned Advocate, representing the Respondent No. 1, submits that an adjudication involving disputed questions of fact, the interpretation of contractual documents and the determination of the actual financial liability of the Petitioners towards the Bank would necessarily require the appreciation of documentary and accounting evidence, and the determination of matters which cannot appropriately be adjudicated in the present writ petition.

15. Ms. Lahiri submits that the Respondent No. 1 Bank has already instituted proceedings under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993, registered as O.A. No. 291 of 2018, which is pending adjudication before the Learned Debts Recovery Tribunal No. 1, Kolkata. Therefore, the Petitioners' grievance concerning CIBIL or credit reporting, raised through the present writ petition, would necessarily overlap with, and potentially pre-empt, the adjudication is pending before the Learned Debts Recovery Tribunal.

16. Ms. Lahiri submits that, by its judgment dated August 22, 2022, the Hon'ble Division Bench in A.P.O. No. 72 of 2020 did not discharge the Petitioners' loan liabilities, did not set aside the historical fraud

classification, and did not direct alteration of the credit information pertaining to the Petitioners' accounts.

17. Ms. Lahiri submits that the Petitioners accepted the OTS containing the recital concerning the existing fraud classification; made part-payments thereunder; subsequently proposed further settlements; acknowledged the existence of multiple NPA accounts in their communication dated June 27, 2025; and continue to dispute the quantum and the terms upon which the underlying liabilities are to be discharged.

18. Ms. Lahiri submits that the Petitioners cannot seek a direction compelling the Respondent No. 1 to treat the accounts as "Standard/ Closed/ Settled-Interest under Dispute" without first establishing the factual and regulatory basis for such status. Such a direction would necessarily require this Court to adjudicate the underlying contractual and financial disputes between the parties.

19. Ms. Lahiri submits that the Petitioners herein, having committed fraudulent acts and being fully aware of the criminal proceedings against them, are trying to get their credit score improved in order to mislead other lenders and fraudulently obtained further loans from banks/ financial institutions.

20. Ms. Lahiri relied upon the judgments in the case of ***Bijnor Urban Cooperative Bank Limited, Bijnor & Ors. vs Meenal Agarwal & Ors.***, reported in ***(2023) 2 SCC 805***, and in the case of ***State Bank of India vs Arvindra Electronics Pvt. Ltd.***, reported in ***(2023) 1 SCC***

540, wherein the Hon'ble Supreme Court of India considered the limited scope of interference by a Constitutional Court in matters concerning One Time Settlement schemes and recognised that an OTS does not confer an indefeasible right upon a borrower to insist upon the continuance or extension of a settlement which has not been complied with.

21. The petitioner no.1 had a Cash Credit Account No. 50018621165 and a Term Loan Account No. 50022869927 with the Allahabad Bank, which is now merged with the Indian Bank. The Bank by a letter dated 16th March, 2015, accepted One Time Settlement for a sum of Rs. 4,11,02,726/- with the following conditions:

"Ref: ALB_IBK/ADV/OTS/AK/2014-15/1190 DATE: 16.03.2015

Parijat Vyapaar Pvt Ltd (PVPL)
Bhagat Chamber, 5th Floor
12A, Netaji Subhas Road, Kolkata-700 001

Dear Sir,

Approval of Compromise Offer

This has reference to your proposal dated 08/01/2015 for compromise settlement w.r.t. loan outstanding of Rs.4,11,02,726/- (ledger balance) in the accounts (CC-Rs.3,73,27,386/- & TL-37,75,340/-) held in your name.

In this connection, we have to advise that the proposal has been approved by the competent authority on the following terms and conditions:

Amount of Acceptance	*Rs. 4,11,02,726/-* *As compromise sum towards full & final settlement*

Payment Terms	*Down Payment (5%)*	*Rs.20,55,136/- (deposited)*
	Balance Payment	*19 Equated Quarterly Instalment (EQI) of Rs.26,21,586/- each* *1st Instalment to be paid within 31/03/2015, thereafter* *18 EQI of Rs.26,21,586/- (from June-2015 to Sept-2019) (19 PDGs to be deposited for repayment as per above schedule).* *Interest will be applied & realized @ Base Rate (floating) on reducing balance from 19.01.2015. (date of approval) to last date of payment of entire compromise sum.*

Other Terms of Compromise Approval

1. Acceptance of the terms of OTS will be submitted by the Borrower/ Guarantor as per format enclosed (Annexure-I).

2. The Borrower/Directors/Guarantors will withdraw counter suits & other proceedings, if any, filed against the Bank in any Court/Forum.

3. In case of any default in payment of the compromise sum, as per schedule, the Bank will present the above referred Cheque(s) and in case, it is dishonoured on any ground by the paying banker, then the Bank will initiate action under Sec. 138 of the N.I. Act.

4. The Bank has approved OTS in respect of recovery of loan (Civil Liability only) and there is no settlement, in respect of any criminal liability which is on date established/ under trial (criminal cases/ proceedings) in any Courts/ agency, against the borrower/ the guarantor or any criminal liability is found against the borrower/the guarantor later on.

5. If you fall to honour, any or all of the above referred terms & conditions, then the compromise approved by the bank will automatically stand cancelled as withdrawn and all of the concessions/relief granted in this settlement will be treated as withdrawn. The Bank will have the liberty to proceed for recovery of the entire outstanding dues with interest, costs and expenses as if there

was no compromise settlement.

6. A joint Memorandum of Understanding (MOU) will be executed as per format enclosed (Annexure-II) incorporating the above terms of settlement with default clause.

7. Bank has declared Fraud in this account and has also initiated criminal action against erring borrower/guarantor. Police/CBI complaint has been filed. Bank is compromising only its civil liability & not the criminal liability. So, as per extant guidelines, the investigating agency (CBI/Police) will be properly informed about the terms of the compromise approved by the Bank.

8. On receipt of the entire compromise sum, as per the terms of sanction, the Bank will issue No Dues certificate for civil liability only as per standard applicable format.

9. The fake title deed of the property, submitted by the borrower, shall not be returned even after receipt of the entire compromise sum. After closure of the account, this fake title deed will be kept in Safe Custody till they are handed over to the Investigating Agency on their demand.

You are requested to acknowledge the acceptance of terms of OTS Approval and initiate requisite steps for completion of necessary formalities/ execution of MOU and ensure repayment as per given schedule.

Yours faithfully

(NK Shrivastava)

Assistant General Manager

Encl: Annexure I & II."

22. As per terms and conditions of One Time Settlement, the accepted amount of Rs. 4,11,02,726/- was to be paid by the petitioners in 19 installment of Rs. 26,21,586/- each by September, 2019. On 6th April, 2019, a Show Cause notice was issued to the petitioners and on 18th

January, 2020, the petitioners were declared as willful defaulters. The petitioners challenged the show cause notice before this Court by way of writ petition but this Court dismissed the said writ petition. The Appellate Court while admitting the appeal preferred by the petitioners on 28th July, 2020, directed the petitioners would have the option of depositing Rs. 64 lakhs with the respondent bank and upon Rs. 64 lakhs being deposited, the respondent bank would not take any further steps towards declaration of the appellants as wilfull defaulters.

23. Till 20th August, 2020, the petitioners have paid the principal sum of Rs. 4,11,02,726/-. The Appellate Court has disposed of the appeal by an order dated 22nd August, 2022, by passing the following order:

> *"With regard to the first ground taken by Mr. Saha which is considered by us to be most important, it does appear from a supplementary affidavit prepared and filed by the appellants that from 19th January 2015 till 11th August 2020 substantial payments aggregating to Rs. 4,11,02,726/- were made and only the interest amount of Rs. 1,46,98,630/- was outstanding. Furthermore, Mr. Saha submitted that his clients were willing to repay whatever outstanding of the respondents on such terms as the court may set.*
>
> *Ms. Lahiri appearing for the bank has also handed up a statement showing outstanding dues, credits and adjustments in relation to the account of the appellants. She prays for further time to produce more accounts. That would not be necessary in view of her submission that what is due and payable by the appellants to the bank is interest as stated by her client in the affidavit. The principal sum appears to have been paid.*
>
> *In this situation prima facie it is not possible for this court to accept that the appellants could be declared as wilful defaulters. Prima facie the intention to deprive the bank appears to be lacking.*

The factum of periodic payments by the appellants of the loan amount which has resulted in repayment of the entire principal and their willingness to pay off the outstanding would at least, prima facie, not depict the appellants as wilful defaulters. On the contrary, they have also shown their bona fides by depositing Rs. 64 lakhs with the bank further to our said interim order in the appeal.

In those circumstances, we are of the opinion that this case requires readjudication by WDIC. The review committee does not have the jurisdiction to decide the factual issues involved.

In view of our findings above, the decision of the respondent bank dated 18th January 2020 declaring the appellants as wilful defaulters is set aside. The declaration of the appellants as wilful defaulters or proposed wilful defaulters has to be forthwith erased completely from the records of the respondent bank. We direct readjudication of the show cause notice by the WDIC without such declaration, upon considering the reply filed by the appellants, upon hearing them and by passing a reasoned order to be passed within three months of communication of this order.

The impugned judgment and order dated 26th June 2020 is set aside.

All points are kept open before the WDIC.

The appeal is allowed to the above extent."

24. The petitioners are ready and willing to pay the interest liability of Rs. 1,46,98,630/- but the bank refused to accept the said amount as final settlement in terms of the OTS. The bank claims that in account No. 50018621165, an amount of Rs. 5,35,97,633/- as on 16th June, 2026 is due, and in account No. 50022869927 an amount of Rs. 1,29,29,885/- is due against the petitioners and the OTS granted to the petitioners is cancelled.

25. The respondent bank has initiated proceeding against the petitioners under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 being O.A. No. 291 of 2018 and the same is pending for adjudication. In the said proceeding, the bank has claimed the due amount pending against the petitioners.

26. The Bank has approved One Time Settlement on 16th March, 2015. As per terms of OTS, 19 equated quarterly installment is to be paid by the petitioners from 31st March, 2015 to September, 2019. The petitioners are also liable to pay interest at the base rate (floating) on reducing balance from 19th January, 2015 (date of approval) to last date of payment of entire compromise sum.

27. Clause 5 of the OTS provides that if the petitioners failed to comply with the terms and conditions, the compromise approved by the bank will automatically stand cancelled and withdrawn and all the concession/ relief granted in the settlement will be treated as withdrawn. The bank will have the liberty to proceed for recovery of the entire outstanding amount with interest, cost and expenses as if there was no compromise settlement.

28. The final installment was to be paid by the petitioners by September, 2019. Before completion of the time of settlement, the respondent bank has initiated proceedings under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993. The bank has also issued a show cause notice on 6th April, 2019 i.e. prior to September, 2019 and declared the

petitioners as wilfull defaulters on 18th January, 2020. By an order dated 28th July, 2020, the Appellate Court directed the petitioners to deposit Rs. 64 Lakhs. Till 11th August, 2020, the petitioners have deposited an amount of Rs. 4,11,02,726/- and the bank has accepted the said amount without any objection.

29. The Appellate Court has set aside the order of willful defaulters dated 18th January, 2020, and directed the bank for readjudication of the show cause notice upon considering the reply filed by the petitioners. The Appellate Court has also directed the Willful Defaulter Identification Committee (hereinafter referred to as "WDIC") to pass a reasoned and speaking order within three months from the date of communication of the order. It is pertinent to mention here that till date no order is passed by the WDIC on the show cause reply submitted by the petitioners. The bank has also not challenged the order passed by the Appellate Court and accepted the principal amount of OTS. The petitioners are also ready and willing to pay the interest in terms of OTS but the bank claiming an amount of Rs. 5,35,97,633/- in account No. 50018621165 and an amount of Rs. 1,29,29,885/- as on 16th June, 2026, on the pretext that the petitioners have not complied with the terms of the OTS, thus OTS has been withdrawn/ cancelled and the petitioners are liable to pay the principal amount and interest as per normal terms and conditions of sanctioned order.

30. A One Time Settlement is a contract, not an entitlement. No borrower can compel a bank or NBFC to accept less than the contractual dues.

An OTS exists only because the lender's board approved policy permits a compromise and because the sanctioning authority has chosen to exercise that discretion on the facts of a particular account.

31. It is admitted fact, which is borne out by the records that till August 2020, the petitioners have paid the total principal amount of Rs. 4,11,02,726/- and the bank has appropriated the said amount. At no point of time, the bank indicated after the month of August, 2020, that the money deposited was not being accepted under the OTS, as the OTS had been cancelled, but was appropriated against the money which the bank was entitled to recover.

32. The default clause not to be read in isolation to the other clauses. The default clause deals with cancellation of OTS upon failure to pay the amount and interest. The petitioners have paid the total principal amount and the same was accepted by the bank as well as by the Hon'ble Division Bench of this Court in an appeal filed by the petitioners against the show cause notice and declaration of wifull defaulter of the petitioners and set aside the order of wilfull default. The petitioners time and again requested the bank for acceptance of interest part but the bank refused to accept interest. Mr. Saha also argued before this Court that the petitioners are ready and willing to pay interest part which is due but the bank refused to accept the interest part.

33. The OTS also provides that "*Interest will be applied and realized @ Base Rate (floating) on reducing balance from 19th January, 2015 (date of approval) to last date of payment of entire compromise sum".* The interest part provided in the OTS is not that in case of failure to pay the principal settled amount, the petitioners have to pay interest. The interest is also part of the settlement along with principal settled amount.

34. Though in terms of the order of the Hon'ble Division Bench, the bank has not proceeded with the show cause notice but the bank has already initiated a proceeding under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 and the same is pending before the Tribunal.

35. The Reserve Bank of India issued Master Circular dated 2nd July, 2012 with respect to Income Recognition, Asset Classification, Provisioning and Other Related Matters- UCBs, wherein in Clause 3- Asset Classification has been described which also follows "Loss Assets". Clause 3.2.4 defines "Loss Assets" which reads as follows:

> ***"3.2.4. Loss Assets***
>
> *A loss asset is one where loss has been identified by the bank or internal or external auditors or by the Co-operation Department or by the Reserve Bank of India inspection but the amount has not been written off, wholly or partly. In other words, such an asset is considered un-collectible and of such little value that its continuance as a bankable asset is not warranted although there may be some salvage or recovery value."*

36. The petitioners are claiming the benefit of OTS and on the other hand, the bank is claiming the dues pending against the petitioners. The bank has also initiated proceeding before the Tribunal. Unless it is not decided that whether the petitioners have complied with the terms and conditions of the OTS or the action of the respondent bank by treating the OTS is cancelled for non-compliance of the OTS, it would not be appropriate to pass any order for removal of reporting of classification as "Loss".

37. The claim and counter claim of the petitioners and the respondent bank is the disputed question of fact which cannot be decided in the present writ petition. The respondent bank has already initiated proceeding before the Tribunal, the petitioners are entitled to raise all the issues before the Tribunal.

38. In view of the above, the writ petition is dismissed. However, dismissal of the writ petition will not prevent the petitioners to raise all the issues before the Tribunal and Tribunal shall decide all the issues without being influenced with any of the observation, if any, made in this order.

39. **WPO No. 704 of 2025** is **dismissed**. Accordingly, **GA No. 1 of 2026** is **disposed of**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)