Court No. 6
(265719)

21.09.2026
(AD 53)

(S. Banerjee)

CO 3055 of 2026

M/s. Maa Kali Traders & Ors.
Vs.
Punjab National Bank & Ors.

Mr. Suddhasatva Banerjee
Ms. Susmita Nath
...for the petitioners

Ms. Parna Roy Choudhury
Ms. Payel Ghosh
...for the opposite-party Bank

This application under Article 227 of the Constitution of India is at the instance of the borrower and is directed against the order dated August 24, 2026 passed by the learned Presiding Officer, Debts Recovery Tribunal II, Kolkata in IA No. 9921 of 2026 along with IA No. 9941 of 2026 arising out of SA No. 1023 of 2026.

Challenging the action of the bank under Section 13(4) of the SARFAESI Act, 2002, the petitioners filed an application under Section 17 of the SARFAESI Act, 2002 being SA No. 1023 of 2026. During the pendency of the SARFAESI application, the bank floated a notice of sale dated July 17, 2026. Challenging the said sale notice dated July 17, 2026, petitioners filed an application being IA No. 9921 of 2026 before the Tribunal on August 20, 2026. On August 24, 2026 petitioners filed a put up petition being IA No. 9941 of 2026 on the ground that the sale is fixed on August 24, 2026. The learned Tribunal by an order dated August 24, 2026 posted the matter on August 25, 2026 for hearing of the application being IA No. 9921 of 2026. On August 25, 2026, the Tribunal could not take up the matter due to paucity of time and posted the matter on August 27, 2026.

Mr. Banerjee, learned advocate appearing for the petitioners submits that the application challenging the auction sale notice has been kept pending and in the meantime the auction sale has been conducted. He submits that unless an interim protection is granted, the application being IA 9921 of 2026 shall become infructuous.

Such submission is disputed by the learned advocate appearing for the bank. She submits that since August 24, 2026 was fixed for auction sale and the bids are expected to be submitted till 7 p.m. on that date, the hearing of the application was adjourned to the subsequent date. She submits that since bids have been submitted and the highest bidder has been identified, any interim order would affect the right of the bank. She further submits that the auction purchaser has already been impleaded before the Debts Recovery Tribunal and tomorrow (September 22, 2026) is the next date fixed before the Tribunal.

Record reveals that the application challenging the auction sale notice was filed on August 20, 2026, i.e., before the date for holding auction. The petitioners approached the Tribunal with a put up petition on August 24, 2026 and the learned Tribunal after noting the submission of the learned advocate for the bank that the bidding process is going on and the sale is in process, posted the matter on a subsequent date. After going through orders dated August 24, 2026 this Court finds that the matter was posted on a later date so that the Tribunal can be apprised about the result of the sale.

When the legality and propriety of an auction sale notice has been challenged, the Tribunal is expected to take up the hearing of such application instead of waiting for the result of the auction sale. The decision on the challenge as to the legality of an auction sale notice cannot be said to be dependent upon the result of the auction. The learned Tribunal ought not to have postponed the hearing only on the ground of being apprised of the result of the auction sale.

For such reason, this Court is inclined to pass an interim order.

Considering the fact that tomorrow (September 22, 2026) is the date fixed before the learned Tribunal this Court requests the learned Tribunal to take up the hearing of IA No. 9921 of 2026 on the next date fixed, i.e., tomorrow (September 22, 2026) prior to taking up the application for impledment of the auction purchaser.

The bank is restrained from taking any further steps pursuant to the auction sale conducted on August 24, 2026 till IA No. 9921 of 2026 is heard and disposed of by the learned Tribunal.

With the aforesaid direction and observations, this civil revision application stands disposed of.

(Hiranmay Bhattacharyya, J.)