

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

HON'BLE THE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA
AND

HON'BLE SHRI JUSTICE SUBHASH UPADHYAY

09TH JULY, 2026

SPECIAL APPEAL No. 203 of 2024

1: Pramod Sharma

--Petitioner

Versus

1: Punjab National Bank

2: Branch Manager

3: Authorised Officer

4: Presiding Officer

--Respondents

Counsel for the petitioner. : Mr. Jitender Kumar Saxena and Mr.
Himanshu Pal, learned counsel.

Counsel for the respondents. : Mr. Siddharth Jain, learned counsel.

JUDGMENT : (per Shri Manoj Kumar Gupta, C.J.)

1. The present intra-court appeal has been filed assailing the order of learned Single Judge dated 24.06.2024 passed in WPMS/1509/2024, whereby the writ petition filed by the appellant, challenging the sale of the secured assets by the secured creditor in pursuance of sale notice dated 03.05.2024, under the provisions of the SARFAESI Act, has been dismissed, without going into the merits of the case, with liberty to the appellant to seek remedy before the appropriate authority.

2. Learned counsel for the appellant submits that, although the appellant has remedy of approaching DRT under Section 17 of the Act, but since certain observations have been



made by learned Single Judge, touching upon the merits of the case, therefore, in case the appellant approaches the DRT, challenging the auction, the observations and findings recorded by learned Single Judge would come in his way.

3. The findings and observations, with which the appellant is aggrieved by, are as follows :-

“(6) This Court finds substance in the submission made by learned counsel appearing for the Bank. It is not the case where right available to the borrower under Rule 8 of the Security Interest (Enforcement) Rules, 2002 has been violated. The lending bank has to realise the public money, which is given as loan to a borrower. Some minor lapse here and there will not vitiate the auction proceedings unless it violates the substantive right of the borrower. The alleged lapse complained of, do not take away a vested right available to petitioner, thus, there is no scope of interference.”

4. The operative part of the order of learned Single Judge is as follows :-

“(8) Without going into the merits of the case, writ petition is dismissed with liberty to petitioner to approach the appropriate Authority.”

5. The learned Single Judge, in the operative part of the order, has already clarified that he has not gone into the merits of the case, and has dismissed the writ petition, with liberty to the appellant to seek remedy before the appropriate forum.

6. In such an event, we are of the considered opinion that the observations made in paragraph no. 6 of the order of learned Single Judge would not be binding on DRT, in case the appellant avails any remedy before it.



7. With the aforesaid clarification, the intra-court appeal stands disposed of. Interim order, if any, stands vacated.

8. All pending applications stand disposed of accordingly.

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dt: 09th July, 2026
Rahul