

Item No.2
24.06.2026
Court. No. 12
GB

MAT 1017 of 2026
With
CAN 1 of 2026

Abdul Hannan Sardar
VS
State Bank of India & Ors.

*Mr. S.S. Roy,
Mr. Dilip Kumar Samanta,
Mr. Biswapriya Samanta*

... for the Appellant.

*Mr. D.N. Roy, Ld. G.P.,
Ms. Susmita Saha Dutta, Ld. A.G.P.,
Ms. Tanusree Ghosh*

... for the State.

*Ms. Manika Roy,
Mr. Atanu Sur*

... for the SBI.

1. Affidavit-of-service filed in Court today, is taken on record.
2. Despite service, none appears on behalf of the auction purchaser/writ petitioner.
3. The appeal is at the instance of one Abdul Hannan Sardar, who was added as a respondent in the writ petition by an order dated June 17, 2026, as Abdul Hannan Molla. There is a mistake in the surname. We find that such impleadment of the appellant was made on a consent between the auction purchaser and the bank. A mandatory direction was passed upon the police to take possession of the secured asset by His Lordship on the same day, on a writ petition filed by the auction purchaser.

4. His Lordship was of the view that the appellant/borrower was a necessary party to the proceeding, thus, an opportunity should have been given to the borrower to make submissions before such mandatory order was passed. The above observation is based on the fact that an order of the Debts Recovery Tribunal –III, Kolkata, restraining the bank from confirming the sale or handing over the sale certificate to the auction purchaser without prior notice to the appellant, was not considered. We are informed that the proceedings before the Debts Recovery Tribunal – III, Kolkata is still pending and the interim order has been extended from time to time. The first order has been produced before us.
5. Learned advocate for the Bank also submits that the said order subsists. Strangely, the bank has not taken steps either to vacate the order or for a clarification to the effect that the order had become infructuous, on the ground that the sale certificate had been issued sometime in 2019. However, it appears that the bank did not hand over possession because the interim protection that was granted by the DRT III was subsisting.
6. Under such circumstances, His Lordship proceeded on the basis of the submissions of the auction purchaser and the bank, and passed the order. As the order of the DRT-III was not brought to the notice of the Court, such order was passed. The appellant would

have surely been given an opportunity to make his submissions before His Lordship, had such order been produced.

7. We are informed that possession of the premises have been taken by the police authorities, and the tenants as also the borrower have vacated. Under such circumstances, we are of the view that, this is a fit case for status quo ante.
8. The order of the writ court was passed when there was a subsisting order of restrain upon the bank with regard to the sale. The DRT-III was not inclined to allow the completion of the sale, and put the auction purchaser in possession.
9. The possession is now with the bank and not with the auction purchaser as per the police report.
10. The concerned Inspector of Police, will put back the appellant in possession. This order is only restricted to the appellant and not his tenants. None other than the appellant and his family members will be allowed repossession by the police authority upon retrieving the keys from the bank. The bank may continue with symbolic possession. Let the matter appear before His Lordship.
11. It is made clear that the appellant will neither induct any third party nor take any step with regard to the said premises in question. No third party interest will be created. The identity of the persons who are being put back in possession by this order, shall be verified

by the police authorities and a report to that extent shall be filed before His Lordship.

12. The order impugned is set aside. Such repossession by the appellant shall be subject to further directions in the writ petition.
13. As the bank submits that the borrower has not repaid the loan, but has continued in possession for long, the learned DRT-III, Kolkata is requested to dispose of the pending proceeding as expeditiously as possible.
14. Accordingly, the appeal and the connected application are disposed of.
15. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)