

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR**

WRIT PETITION Nos.24552 AND 24642 OF 2025

DATE OF ORDER: 28.01.2026

W.P.No.24552 of 2025:

Between:

M/s. Aditya Constructions, rep. by its Proprietor,
Hyderabad.

.....Petitioner

AND

The Debts Recovery Appellate Tribunal,
Kolkata and Four Others

.....Respondents

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M/s.Aditya Constructions, rep. by its Proprietor,
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AND

The Debts Recovery Appellate Tribunal,
Kolkata and Four Others

.....Respondents

Mr. Sunil B. Ganu, learned Senior Counsel representing Mr.A.Bhuvan
Sundar Reddy, learned counsel appearing for the petitioner.

Mr. K.V. Bhanu Prasad, learned Senior Counsel representing Mr.Mandapati
Murali Krishna, learned counsel appearing for the respondent No.3 (Online).

Mr. B.Mayur Reddy, learned Senior Counsel representing Mr. K.Mahit Reddy, learned counsel for the respondent No.5.

COMMON ORDER: (Per Hon'ble Justice Moushumi Bhattacharya)

1. The petitioner in both these Writ Petitions is a Borrower who availed credit facilities from the respondent No.3 – Union Bank of India (formerly Andhra Bank) of about Rs.10.50 crores by mortgaging an asset which was put to auction by the respondent No.3-Bank. The petitioner has filed these Writ Petitions challenging the Common Judgment passed by the Debts Recovery Appellate Tribunal at Kolkata ('DRAT') on 04.08.2025 reverting an order passed by the Debts Recovery Tribunal-II at Hyderabad ('DRT') on 30.01.2023. The impugned Common Judgment was passed in two Appeals (viz., Appeal Nos.76 of 2023 and 40 of 2023) filed by the respondent No.3-Bank and the respondent No.5-Auction Purchaser, respectively, from the order passed by the DRT on 30.01.2023.

Timeline of Relevant Events

2. A detailed timeline of the relevant events is stated below for a better understanding of the facts leading to the impugned Common Judgment passed by the DRAT.

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| 17.05.2017 | The loan account of the writ petitioner was classified as a Non-Performing Asset. |
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- 20.06.2017 The respondent No.3-Bank issued a Demand Notice under section 13(2) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act'), calling upon the writ petitioner to repay Rs.11,39,50,775/- along with interest.
- 28.06.2017 The writ petitioner addressed a Letter to the respondent No.3-Bank acknowledging the receipt of the Demand Notice and promising to regularise the account.
- 20.09.2017 The respondent No.3-Bank issued a Possession Notice under section 13(4) of the SARFAESI Act as the writ petitioner failed to regularise the account.
- 08.05.2018 The respondent No.3-Bank obtained a Valuation Report from an approved Valuer under Rule 8(5) of The Security Interest (Enforcement) Rules, 2002 ('2002 Rules').
- 18.07.2018 The respondent No.3-Bank issued a Sale Notice under Rule 8(6) of the 2002 Rules fixing the reserve price @ Rs.6,67,71,000/-. The auction failed for lack of bidders.
- 12.12.2018 The respondent No.3-Bank issued another Sale Notice under Rule 8(6) of the 2002 Rules fixing reserve price @ Rs.6,00,93,000/- i.e., 10% lower than the price fixed in the earlier auction notice dated 18.07.2018. The auction failed for lack of bidders.
- 29.05.2019 The respondent No.3-Bank issued another Sale Notice under Rule 8(6) of the 2002 Rules fixing reserve price @ Rs.5,50,93,000/- i.e., 10% lower than the price fixed in the earlier auction notice dated 12.12.2018. The auction failed for lack of bidders.
The writ petitioner filed S.A.No.185 of 2019 before the DRT and was granted a conditional order

requiring the writ petitioner to deposit Rs.3.50 crores for stay of auction. The writ petitioner, however, failed to comply with the aforesaid conditional order.

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| 07.10.2019 | The respondent No.3-Bank issued another Sale Notice under Rule 8(6) of the 2002 Rules fixing reserve price @ Rs.4,95,00,000/- i.e., 10% lower than the price fixed in the earlier auction notice dated 29.05.2019. The auction failed for lack of bidders. |
| 19.12.2019 | The respondent No.3-Bank issued another Sale Notice under Rule 8(6) of the 2002 Rules fixing reserve price @ Rs.4,95,00,000/- which was the same price as fixed in the earlier auction notice dated 07.10.2019. |
| 10.01.2020 | The auction was conducted in which the respondent No.5 emerged as the highest bidder by bidding an amount of Rs.5,35,00,000/-. |
| 31.10.2019 | In the Writ Petition (WP.No.23860 of 2019) filed by the writ petitioner, a Coordinate Bench of this Court granted interim order directing the respondent No.3-Bank not to register the Sale Certificate issued to the respondent No.5. |
| 21.03.2020 | Though the respondent No.5 deposited the entire amount/sale consideration with the respondent No.3-Bank, the respondent No.3-Bank did not issue the Sale Certificate to the respondent No.5 by reason of direction granted by this Court on 31.10.2019 in W.P.No.23860 of 2019. |
| 07.08.2020 | The Coordinate Bench disposed of the Writ Petition by a final order whereby the interim order dated 31.10.2019 was extended till disposal of the writ petitioner's SA pending before the DRT. |
| 30.01.2023 | The DRT allowed SA No.185 of 2019 setting aside the auction conducted on 10.01.2020 on the ground |

that the reserve price fixed was less than the distress price.

04.08.2025 The DRAT passed the impugned Common Judgment setting aside the order of the DRT upholding the auction dated 10.01.2020, *inter alia*, on the ground that the value fixed by the Authorised Officer was upon due consultation with the Secured Creditor and that the Committee had taken into consideration the previous proposed auctions which could not be materialised.

18.08.2025 The present Writ Petition was filed.

Arguments made on Behalf of the Parties

3. Learned Senior Counsel appearing for the writ petitioner, the respondent No.3-Bank and the respondent No.5-Auction Purchaser, have made their respective submissions on the impugned Common Judgment passed by the DRAT.

4. The main ground taken by Senior Counsel appearing for the writ petitioner/Borrower is that the auction was held on 10.01.2020 on the basis of the Valuation Report dated 08.05.2018 which is contrary to Rule 8(6) of the 2002 Rules. Senior Counsel further submits that the respondent No.3-Bank did not produce any report alleged to have been prepared by the Committee on the basis of which the valuation of the subject property was made on 08.05.2018. It is also submitted that the auction conducted on 10.01.2020 was not proper for purposes of fetching a just price

since by then the COVID-19 pandemic had already begun to affect daily life.

5. Learned Senior Counsel appearing for the respondent No.3-Bank relied on *Celir LLP v. Bafna Motors (Mumbai) (P) Ltd.*¹ to urge that repeated interference with public auctions would frustrate the sanctity and the very purpose of holding the public auction. Senior Counsel submits that the auction cannot be set aside since no material irregularities and/or illegality, collusion or fraud were found in the present case. It is also submitted that the Reserve Price for the subject property was fixed on the basis of a report of the Committee constituted by the Bank.

6. Learned Senior Counsel appearing for the respondent No.5-Auction Purchaser submits that the reduction in the auction price was done by reason of the failed auctions. Senior Counsel submits that the process used was akin to the procedure followed by a Liquidator under The Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ('2016 Regulations') and reiterates that a confirmed public auction cannot be set aside unless there is a fundamental procedural defects or a substantive irregularity or auction is vitiated by fraud or collusion. It is also

¹ (2024) 2 SCC 1

submitted that the writ petitioner failed to plead fraud or collusion before the DRT or the DRAT or the plea of pandemic which would touch upon the maintainability of the present Writ Petition.

Decision:

7. We have considered the arguments in the context of the material placed before us and the relevant rules under the 2002 Rules.

The issue:

8. The issue which falls for consideration is whether the DRAT was correct in reversing the order of the DRT in respect of the auction held on 10.01.2020 to hold that is the auction was properly conducted by the secured creditor. As stated above, the DRT had set aside the auction on the basis that the price fetched in respect of the secured asset in the e-auction was less than the distress sale value as reflected in the Valuation Report dated 08.05.2018. The DRAT reversed this finding by way of the impugned Common Judgment.

9. The secured asset, which is the subject matter of the present Writ Petition consists of Property 'B' described in schedule B to S.A.No.185 of 2019, admeasuring 2473 square yards in Plot-A

situated in four survey numbers of Kapra Village, Keesara Mandal, Ranga Reddy District. The respondent No.3-Bank sought to auction the subject property belonging to the writ petitioner/Borrower on the basis of the Valuation Report dated 08.05.2018 under Rule 8(5) of the 2002 Rules. Five attempts were made to auction the said property at the Reserve Price fixed in accordance with the realizable value as per the Valuation Report. However, these attempts failed due to want of bidders and the respondent No.5 was declared as the highest bidder in the fifth attempt. The fifth auction was held on 10.01.2020 on the basis of the Reserved Price of Rs.4,95,00,000/- which was the same as that fixed in the fourth auction notice dated 07.10.2019. The respondent No.5's bid for Rs.5,35,00,000/- was accepted by the Bank.

Legal Framework of Auction-Sale of Asset

10. Auction of a secured asset is governed by The Security Interest (Enforcement) Rules, 2002. Rule 8 deals with 'Sale of Immovable Secured Assets'. Sub-Rule (5) of Rule 8 mandates that before effecting sale of the immovable property referred to in Rule 9(1), the Authorised Officer of the Bank/Secured Creditor shall obtain valuation of the property from an approved Valuer and fix the Reserve Price of the property in consultation with the Secured

Creditor and may thereafter sell the whole or any part of the immovable secured asset by any of the methods envisaged in Rule 8 (5) including those in clauses (c) and (d) thereof which include sale by public auction including through e-auction mode and sale by private treaty, respectively. Rule 8(6) requires the Authorised Officer to serve a notice to the Borrower of 30 days in respect of sale of the immovable secured asset under Rule 8(5). The *proviso* to Rule 8(6) envisages the Secured Creditor giving a public notice of the sale in the prescribed Form as given in Appendix IV-A in two leading newspapers including one in vernacular language having wide circulation in the locality, in case the sale of such secured asset is to be effected through invitation of tenders from the public or by holding public auction.

11. Rule 8(5) of the 2002 Rules is set out below for a seamless understanding:

“8. Sale of immovable secured assets:-

(1) to (4) xxx

(5) Before effecting sale of the immovable property referred to in sub-rule (1) of rule 9, the authorised officer shall obtain valuation of the property from an approved valuer and in consultation with the secured creditor, fix the reserve price of the property and may sell the whole or any part of such immovable secured asset by any of the following methods:-

(a) by obtaining quotations from the persons dealing with similar secured assets or otherwise interested in buying the such assets; or

- (b) by inviting tenders from the public;
- (c) by holding public auction including through e-auction mode; or
- (d) by private treaty.”

12. What is clear from Rule 8(5) of the 2002 Rules is that the secured asset must be valued by an Approved Valuer and the Authorised Officer must obtain the valuation of the property before selling the immovable secured asset by way of a public auction. The Authorised Officer must also fix the Reserve Price of the property before the property is auctioned. The necessity of obtaining a Valuation Report of the secured asset serves many purposes, the foremost among which is to ensure that the asset proposed for sale fetches the best price. The valuation should also be fixed on relevant material with adequate reasons to accept/reject the Valuation Report: *Ram Kishun v. State of U.P.*².

13. In the present case, it is undisputed that the auction held on 10.01.2020 was done pursuant to a Valuation Report as well as the accompanying statutory obligation of the Authorised Officer issuing a notice to the writ petitioner/Borrower within a stipulated time frame in respect of the sale of the secured asset in accordance with Rule 8(6) of the 2002 Rules. It is not the petitioner’s case that the property was auctioned either without a Valuation Report or

² (2012) 11 SCC 511

without a Reserve Price being fixed on the property as communicated in the five auction notices from 2018 to 2020. Hence, there is no material to show that the property was auctioned in contravention of the 2002 Rules.

The Legal Mandate

14. The argument made on behalf of the petitioner is on the alleged inordinate time gap between obtaining of the Valuation Report and the auction. This argument should be placed in context of Rule 8(5) of the 2002 Rules.

15. Rule 8(5) contemplates three stages for an immovable property to be sold by the Authorised Officer. These stages are

- (i) valuation of the property by an approved Valuer,
- (ii) fixing of the reserve price in consultation with the Secured Creditor and
- (iii) sale of the property by any of the methods provided under Rule 8(5) (a) – (d). Rule 8(6) provides serving notice to the Borrower by the Authorised Officer before 30 days of the sale. The *proviso* to Rule 8(6) and Rule 8(7) stipulate the form and manner of the publication of a public notice in case of sale by public auction or public tender and the communication of the notice for

sale of the immovable property which is to be affixed on a conspicuous part of the immovable property, respectively.

16. It is pertinent to note that Rule 8(5) does not mention any time period between obtaining valuation of the property and sale thereof. The only stipulation is that the property must be valued by an approved Valuer and only thereafter be sold after fixing of the Reserve Price in consultation with the secured creditor.

17. Rule 8(5) of the 2002 Rules must also be read within the overall legislative intention of protecting the Borrower as well as the Secured Creditor in commanding the best price for the secured asset. Rule 8(5) cannot be construed in a manner which is divorced from the attending facts, specifically where the secured asset is made to undergo multiple auctions over a span of time due to the absence of any bidder coming forward for purchase of the property. Rule 8(5) does not contemplate a fresh valuation preceding successive auctions for the same property. *M/s.Pochiraju Industries Ltd. v. Punjab National Bank*³, relied on by the petitioner, is factually distinguishable since the Court found that the Valuation Report dated 01.02.2017 contained a rider that the

³ (2018) 2 ALD 543 (DB)

valuation would only remain valid for a period of three months. The Division Bench of this Court accordingly found that the valuation had expired by efflux of the validity period and had worked itself out at the relevant point of time, namely, the subsequent e-auction sale notice issued on 01.07.2017.

18. The requirement of obtaining a Valuation Report before sale of the immovable secured asset under Rule 8(5) of the 2002 Rules should also be understood in a practical light. A Valuation Report from an approved Valuer eliminates, or at least minimises the possibility of collusion with bidders and ensures that the property is sold at a price which is consistent with its intrinsic worth. It is also necessary to fix the Reserve Price upon consideration of the Valuation Report for encouraging intending buyers to come forward for purchasing the property at a price which is commensurate with the value of the property.

Mark-down of the Reserve Price – Rationale

19. As stated above, the Bank sought to auction the property five times from 18.07.2018 to 10.01.2020 but failed each time due to the lack of bidders. It was only at fifth attempt on 10.01.2020 that the respondent No.5 emerged as the highest bidder by bidding an amount of Rs.5,35,00,000/- over the Reserve Price of

Rs.4,95,00,000/-. The failure of the Bank to auction the property over the span of almost two years would in itself justify the marking-down of the Reserve Price. Apart from the successive failed auctions, the Bank also held meetings with the designated Committees in 2019 and only thereafter decided to reduce the price quoted in the auction notice. The Bank also marked-down the price in a phased manner with every failed auction with a reduction of 10% of the last upset price in order to invite bidders.

20. The process of marking down of the Reserve Price is not unknown to law. Regulation 33 of The Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 provides the mode of sale ordinarily to be followed by the Liquidator in respect of assets of the Corporate Debtor i.e., through an auction in the manner specified in Schedule-I thereof [Regulation 33(1)]. Schedule-I to the 2016 Regulations particularly enumerates the mode of sale by way of an auction. Clause 1(4) of Schedule-I, *inter alia*, provides that the Reserve Price shall be the value of the asset arrived at in accordance with Regulation 35 ('Valuation of Assets or Business Intended to be sold') and where an auction fails, the Reserve Price in subsequent auctions may further be reduced by not more than ten percent at a time. The *proviso* to Clause 1(4) contemplates a situation where the Reserve Price of the failed

auction of the asset was fixed as per the valuation under Regulation 35(1) and the Liquidator may, on the advice of the Consultation Committee, reduce the reserve price up to twenty-five percent, once during the process.

21. Hence, the necessary statutory allowance for gradual reduction of the Reserve Price may be imported from the 2016 Regulations to Rule 8(5) of the 2002 Rules where the Secured Creditor is forced to hold multiple and successive auctions by reason of lack of bidders and is consequently compelled to mark-down the Reserve Price to ensure success of the auction.

22. Even on a logical premise the Bank marking-down the Reserve Price by 10% with each successive auction in a phased manner from the first to fifth auction cannot be interdicted either on facts or in law. The leeway given to Banks to adjust the Reserve Price involving a series of failed auctions was noticed by the Supreme Court in *Arce Polymers v. Alphine Pharmaceuticals*⁴ and also by a Division Bench of the Punjab and Haryana High Court in *Sarv Hitkari Educational Society v. Punjab National Bank and Another*⁵. In any event, a confirmed public auction which confers legal rights on the *bona fide* purchasers for value cannot be set

⁴ (2022) 2 SCC 221

⁵ Civil W.P.No.7649 of 2020, dated 19.06.2020

aside unless there is a fundamental procedural defect or a substantive irregularity which goes to the core of the process.

No Evidence of Fraud/Collusion or Procedural Error

23. The petitioner has also not shown any evidence of fraud or collusion between the Bank and the Auction Purchaser which would throw a spanner in the e-auction. The argument of fraud and collusion was neither pleaded nor placed by way of evidence before the DRT or the DRAT. The suggestion of fraud or collusion has been made for the first time before this Court. Moreover, the insistence of the petitioner on the price fetched in the e-auction being less than the distress sale value as shown in the Valuation Report dated 08.05.2018 disregards the undisputed facts of the case.

24. In the foregoing paragraphs we have already discussed that the petitioner has failed to prove any fraud or collusion between the Bank and the Auction Purchaser which would vitiate the auction. The petitioner has also failed to show any price undercutting or under-bidding at the behest of the auction purchaser or the Bank. Mere irregularity which does not amount to a fundamental procedural error would not entitle the Writ Court

to upend an auction disregarding the irreversible injury which would be caused to the Auction Purchaser.

The Equities

25. A few of the undisputed facts should be reiterated to underscore the illegality of the prayer for setting aside of the auction.

26. The Bank issued a Demand Notice under section 13(2) of the SARFAESI Act and a Possession Notice under section 13(4) of the said Act in June and September, 2017, respectively. The petitioner failed to comply with the Demand Notice. The Bank thereafter obtained a Valuation Report with respect to the subject property from an approved Valuer on 08.05.2018. The first auction was held on 18.07.2018 followed by the second auction on 12.12.2018. The third auction was held on 29.05.2019 and fourth auction was held on 07.10.2019. All the five auctions failed. The fifth auction was held on 10.01.2020 wherein the respondent No.5 was adjudged the highest bidder. The respondent No.5 deposited the entire sale consideration of Rs.5,35,00,000/- on 21.03.2020. The petitioner, in the meantime, obtained interim orders from the DRT on the condition of the petitioner depositing Rs.3.5 crores with the Bank. The petitioner however failed to deposit any amount. The Bank

hence proceeded with the auction on 10.01.2020. The DRT thereafter set aside the auction on 30.01.2023 which was subsequently reversed by the DRAT (impugned Common Judgment) on 04.08.2025.

27. From a practical view of the events, it would be evident that the Bank was entitled to sell the property to arrest further reduction in the value of the property. It should also be borne in mind that the rights of the Auction Purchaser crystallised as far back as in March, 2020.

Conclusion

28. Therefore, almost six years have passed since the entire sale consideration has been deposited by the respondent No.5/Auction Purchaser. The petitioner's debt, in the meantime, has ballooned to Rs.30 crores. The Bank however has not been able to realize a single rupee from the outstanding amount. The petitioner failed to participate in any of the five auctions and approached the Court in 2025 to set aside the auction after five years of the respondent No.5 making payment of the entire sale consideration. The petitioner has not been able to place any fact or law for the Writ Court to step in and interfere with the auction conducted in January, 2020.

29. Sanctity of a public auction has been reinforced in several decisions. The consensus from these decisions is that a confirmed auction can only be interfered with on extremely limited grounds, as otherwise, no auction would ever be complete: *Valji Khimji and Co. v. Hindustan Nitro Product (Gujarat) Ltd. (Official Liquidator)*⁶. The Supreme Court has also held that a party who subsequently comes to challenge an auction must show its *bona fides* in having participated in the said auction and making a bid. Repeated interference with a public auction would frustrate the sanctity and purpose of holding auctions: *K.Kumara Gupta v. Sri Markendaya & Sri Omkareswara Swamy Temple*⁷ and *M/s.Soumya Engineering v. The Chief Manager, Indian Bank*⁸. This decision was confirmed by the Supreme Court in Special Leave to Appeal (C) No.11930 of 2022, dated 18.07.2022.

30. It is further settled that sale pursuant to a public auction can only be set aside where the material on record clearly reveals that the property was frittered away on a wholly inadequate/unrealistic consideration or by reason of fraud/collusion or on any material irregularity/illegality in

⁶ (2008) 9 SCC 299

⁷ (2022) 5 SCC 710

⁸ W.P.No.37363 of 2015 (GM-DRT), dated 11.03.2022

conducting the public auction. The Court's duty is to protect the sanctity of an auction as undue interference would frustrate the very object and purpose behind auctions and deter public confidence and participation in the same: Celir LLP v. Bafna Motors (Mumbai) (P) Ltd. (supra).

31. The above reasons hence compel us to hold that the Writ Petitions must fail. The writ petitioner has not shown any facts or law to persuade this Court to set aside the impugned Common Judgment of the DRAT dated 04.08.2025, by which the Auction was upheld, as being contrary to law.

32. W.P.Nos.24552 and 24642 of 2025, along with all connected applications, are accordingly dismissed. There shall be no order as to costs.

MOUSHUMI BHATTACHARYA, J

GADI PRAVEEN KUMAR, J

DATE: 28.01.2026
Note: L.R. Copy be marked.
B/o.TJMR