

## DEBTS RECOVERY TRIBUNAL-III, DELHI

TSA/09/2023

Dev Rishabh Real Estate Pvt Ltd Vs Indian Overseas Bank

15.11.2025

Item no. 05

Present: Mr. Pallav Saxena, Ld. counsel for S. applicant.  
Mr. Ujjwal Kumar, Ld. counsel for IOB.  
Mr. Abhishek Batra, Ld. counsel for respondent no. 4.

1. This matter is taken up by this Tribunal through Hybrid mode.
2. Arguments already heard on behalf of Ld. counsel for both the parties on IA mentioned hereinafter. Matter is listed for order on the IA.
3. **IA No. 685/2025** has been filed by the applicant company seeking leave to amend the pending Securitization Application under Section 17 of the SARFAESI Act. The applicant states that the SA challenges the respondent bank's symbolic possession notice and the e-auction notice. It is submitted that several new developments arose during the pendency of the proceedings, including alleged statutory lapses under Rule 8(6) and Rule 9(1) of the Security Interest (Enforcement) Rules and the claim that the land in question is agricultural and exempt under Section 31(i). The applicant argues that these subsequent events must be incorporated to enable a complete adjudication.
4. The applicant places strong reliance on the CIRP of the principal borrower. It asserts that the Resolution Plan approved on 11.06.2024 in CP (IB) 190/2017 regularised the loan account and discharged all admitted claims. According to the applicant, the conversion of debt into NCDs and equity means that no subsisting default survives. The applicant further refers to personal insolvency proceedings against Respondent No. 3, the approval of the resolution plan of Respondent No. 2 with statutory extinguishment under Section 32A of the IBC, and certain observations made by the Delhi High Court in writ proceedings. It is also stated that replies to interrogatories filed by the bank acknowledge mandatory requirements under the Rules. The applicant relies on *Sri Vishnu Steels v. Union Bank of India* to argue that amendments based on subsequent developments can be permitted. On this basis, the applicant seeks incorporation of

sd-

additional pleadings relating to the CIRP outcome, extinguishment of debt, and alleged statutory violations.


5. On the other hand, the respondent opposes the application and submits that the request for amendment is misconceived and intended only to delay the proceedings. It is argued that the alleged "subsequent developments" do not alter the nature of the issues already pending, and that the applicant is revisiting the same contentions that were earlier raised and considered. The respondent points out that pleas relating to non-compliance with Rule 8(6) and Rule 9(1), and the claim that the land is agricultural, were already part of the initial pleadings and cannot be reintroduced as fresh grounds.
6. The respondent further states that the main plank of the amendment request is the claim that the debt stands extinguished by virtue of the CIRP of the principal borrower. This, according to the respondent, is legally untenable. The respondent relies on Section 128 of the Contract Act to contend that the guarantor's or mortgagor's liability is co-extensive and independent, and survives the approval of the resolution plan. The respondent also refers to the NCLT order dated 11.06.2024 clarifying that third-party securities remain unaffected. It is also submitted that the applicant knew of the resolution plan's implementation as early as 10.07.2024 and that similar pleas were rejected by this Tribunal in orders dated 27.09.2024 and 03.01.2025. On this basis, the respondent prays for dismissal of the application.
7. Upon considering the submissions advanced on behalf of Ld. counsel for both the parties and perused the records. The application seeks wide-ranging amendments to the SA on the ground that several new and material events have taken place during the pendency of the proceedings. The Tribunal has examined the pleadings, the nature of the proposed amendments, and the objections raised by the respondent.
8. Firstly, the applicant has submitted that the proposed amendment was not in the knowledge of S. Applicant. The record shows that the pleas relating to statutory violations under Rule 8(6) and Rule 9(1), and the contention that the land is agricultural, were already part of the original pleadings. These grounds are neither new nor based on any subsequent facts. Their reintroduction through an amendment application is unnecessary and does not aid adjudication.
9. Secondly, the S. Applicant has placed reliance on the resolution plan approved in the CIRP of the principal borrower. The Tribunal notes that the core contention of the applicant is that, after approval of the plan, the debt stood

SD-

discharged and no subsisting default survives. This position has already been examined by the Tribunal earlier, and orders dated 27.09.2024 and 03.01.2025 record clear findings that the liability of a guarantor or mortgagor survives the CIRP of the corporate debtor. The NCLT order dated 11.06.2024 also states that the resolution plan does not affect third-party securities. The proposed amendments therefore do not introduce any new legal consequence arising from the resolution plan but simply attempt to reopen issues already adjudicated.

10. Thirdly, whether the proposed amendments are necessary for final adjudication. The scope of a securitization application under Section 17 is confined to examining the legality of the measures taken under Section 13(4). The effect of a resolution plan on third-party security interests, allegations of extinguishment of debt, or subsequent contractual arrangements between the principal borrower and the bank do not alter the nature of the challenge to the possession and auction notices. Introducing such pleadings would only broaden the scope of the SA beyond what is permissible.
11. The applicant has relied on *Sri Vishnu Steels* to argue that subsequent developments can be allowed. That decision does not assist the applicant because the proposed amendments here are neither necessary to decide the questions in the SA nor based on subsequent material that changes the nature of the dispute. The proposed amendments seek to add voluminous pleadings that are already part of the record in different forms and have been previously addressed by this Tribunal.
12. This Tribunal finds that the amendment application seeks to re-agitate issues already adjudicated, introduces no new material facts relevant to the SARFAESI challenge, and appears intended to delay final adjudication. The application is devoid of merit. In view of the above discussion, **IA No. 685/2025** seeking amendment of the Securitization Application is hereby dismissed.
13. List the matter on 03.12.2025 for Final Arguments.

15.11.2025

  
(SHIV KUMAR - I)  
PRESIDING OFFICER  
DRT-III, DELHI

