If the bank has already rejected the OTS proposal, such rejection has been taken note of by the NCLAT, and the insolvency appeal is to proceed on its own merits, pendency of that appeal does not bar the bank from proceeding with transfer of loan exposure through the Swiss Challenge Method

The **Madras High Court** in the case of **Reji Abraham vs Punjab National Bank [W.P. No.22088 of 2026] dated June 22, 2026**, has held that where the bank has already rejected the OTS proposal, such rejection has been taken note of by the NCLAT, and the insolvency appeal is to proceed on its own merits, pendency of that appeal does not bar the bank from proceeding with transfer of loan exposure through the Swiss Challenge Method. The Court further held that a borrower or erstwhile management cannot insist on being permitted to match the highest bid in such a process, especially in view of the disqualification under Section 29A of the Insolvency and Bankruptcy Code, 2016.

The Court also reinforced that adoption of the Swiss Challenge Method by a bank for auction of secured asset is legally permissible and is not, by itself, violative of Article 14 of the Constitution of India. Interference under Article 226 is limited, and the High Court will not sit in appeal over commercial decisions of banks and financial institutions unless arbitrariness or illegality is clearly established. A vague allegation of non-compliance with internal or RBI policy, without a concrete challenge to the rejection decision itself, is insufficient to stop the transfer process.

The Court noted that the NCLAT had already taken cognizance of the bank's rejection of the OTS proposal and specifically recorded that there was no possibility of settlement between the parties and that the controversy regarding acceptance or rejection of the proposal no longer survived. The Court also noted that the NCLAT had made it clear that the appeal could proceed on merits in relation to the order admitting CIRP. In that background, the Court held that pendency of the appeal before the NCLAT was not a bar on the bank proceeding with the impugned transfer process.

The Court further observed that the corporate debtor had ample opportunities to repay or submit a viable settlement proposal, but had merely prolonged the matter. It held that the submission that the corporate debtor should be permitted to match the highest bid could not be sustained, because Section 29A of the Insolvency and Bankruptcy Code specifically disqualifies certain persons, including erstwhile management, from participating in the resolution process. On the challenge to the Swiss Challenge Method itself, the Court reiterated that adoption of the Swiss Challenge Method is not violative of Article 14 and that writ courts do not interfere with commercial decisions of financial institutions unless they are arbitrary or illegal.

The Court also found that the challenge based on Clause 12 of the RBI (Commercial Banks - Resolution of Stressed Assets) Directions, 2025 was not sufficient to invalidate the auction notice. It recorded that the writ petition was not challenging the rejection of the OTS itself, and the materials placed before the Court indicated that the bank had considered the OTS proposal in accordance with the prevailing policy and rejected it. The allegation that the auction lacked a valid board-approved policy or resolution was described as vague.