

IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 07th of April, 2026

PRESENT: Hon'ble Mr. Justice G. Chandrasekharan
CHAIRPERSON

RA (SA):19/2022

(SA 97/2022 on the file of DRT-III, Chennai)

BETWEEN

Mrs. Saletha. K
Wife Kalaimani
No.2, 8th Cross Street, Kurinji Nagar
8th Cross Street, Perungudi
Perungudi, Chennai 600 096.

...Appellant

AND

1.The Authroised Officer
Bank Of India,
Asset Recovery Branch
Star House No.17,
Errabalu Street,
Chennai 600 001.

2.V. Kotteswar Reddy
Son of V. Ramakrishna Reddy
No.38, J. D. Apartment,
No.84, P.T. Rajan Salai,
K.K. Nagar, Chennai – 600 078.

3.V. Narashima Reddy
Son of V. Ramakrishna Reddy
No.38, J. D. Apartment,
No.84, P.T. Rajan Salai,
K.K. Nagar, Chennai – 600 078.

4.R. Jeyashing
No.221/A, 4th Street,
Radha Avenue,
Valasaravakkam
Chennai.

....Respondents

(R2 to R4 are given up)

Counsel for Appellant : *Mr. K. C. Krishnamurthy*
Counsel for R1 : *Mr. S.R. Sudhanraj*

ORDER

1. This Appeal is filed against the order passed on 12.04.2022 by the Learned Presiding Officer, DRT-III, Chennai, in SA 97/2022.

2. Appellant filed SA 97/2022 claiming herself to be a lessee in respect of the Schedule mentioned property. She came to know about the SARFAESI proceedings when the Advocate Commissioner informed over the phone on 02.03.2022 to hand over the possession. In the said circumstances, the Securitisation Application was filed.

2.1 First Respondent opposed the claim of the Appellant on the ground that the Appellant is not a tenant entitled to protection from dispossession under SARFAESI proceedings. The reason is that, the rental agreements relied on by the Appellant, said to have been executed by the owners/principal borrowers, are not registered rental agreements. It is only an unregistered rental agreement for a

period of 11 months. After completion of the tenancy period, the Appellant cannot seek protection from dispossession under SARFAESI proceedings.

2.2 A perusal of the impugned order dated 12.04.2022 shows that the submission was made on behalf of the Appellant that a withdrawal Memo will be filed and that no such withdrawal Memo was filed was recorded. Therefore, the Securitisation Application was dismissed. For better understanding, the order is extracted below:

“Representative counsel for applicant and counsel for respondent bank are present. Counter and typed set of documents filed on behalf of respondent bank after serving copies on the other side. Representative counsel for applicant prays time for filing withdrawal memo as counsel on record could not be present today due to personal inconvenience. In terms of submissions made on behalf of applicant during earlier adjournments, a withdrawal memo is undertaken to be filed today. From the records of the Tribunal, it is observed that no such memo is filed. In the result, SA is dismissed with costs of Rs.2000/- payable to Library Fund of DRT and DRAT

Bar Association. Counsel for applicant to report compliance by or before 30.04.2022, failing which office is directed to re-open the file for prosecution of applicant in accordance to law. Interim stay, if any granted and subsisting till this day stands vacated.....”

Against the said order, this Appeal has been filed.

3. Learned Counsel for the Appellant submitted that the Appellant is a tenant entitled to protection from dispossession under the tenancy laws. She is neither a borrower nor a guarantor and cannot be dispossessed for the default committed by the borrowers, under the provisions of the SARFAESI Act, 2002. Thus, he seeks to set aside the order passed by Learned Presiding Officer and to allow this Appeal.

4. In reply, Learned Counsel for first Respondent Bank submitted that the tenant is not entitled to protection from dispossession under SARFAESI proceedings, since it is not a

registered lease agreement. It is further submitted that physical possession of the property had been taken from the borrowers and sold in a SARFAESI sale.

5. Considered the rival submissions and perused the records.

6. From the submissions of the Learned Counsel for the Appellant and the record produced, particularly, the lease agreement dated 01.04.2012 and the rental agreement dated 07.05.2013, it is seen that, these agreements have been executed for a period of 11 months each. These are unregistered lease agreements.

7. It is a settled proposition of law, as laid down by the Hon'ble Supreme Court in **Bajarang Shyamsunder Agarwal v. Central Bank of India & Anr.**, reported in *2019 (9) SCC 94*, that the tenant under a tenancy created through a registered lease agreement executed prior to the creation of

mortgage and a lease agreement that came into existence after the creation of a mortgage, but prior to the issuance of notice under Section 13(2) Demand Notice, subject to fulfilling the conditions of Section 65-A of the Transfer of Property Act, 1882, are alone entitled to protection from dispossession under SARAFESI proceedings. However, a tenant, under an unregistered tenancy agreement, is, at best, entitled to protection for a maximum period of 12 months. Thereafter, they cannot seek protection from dispossession under SARFAESI proceedings.

8. Admittedly, the tenancy agreement dated 07.05.2013 came to end on 06.04.2014. Therefore, the Appellant cannot claim protection from dispossession under SARFAESI proceedings, beyond 06.04.2014. It is further seen from the impugned order that despite giving assurance that Securitisation Application would be withdrawn, the same was not done, and instead, this Appeal is filed.

9. This Tribunal finds that there is no merits in this Appeal calling for interference with the order passed by the Learned Presiding Officer, DRT, III, Chennai. Accordingly, the order passed on 12.04.2022 by the Learned Presiding Officer, DRT-III, Chennai, is confirmed.

10. In the result, this Appeal in RA (SA):19/2022 is dismissed. Both parties shall bear their own costs. All pending IAs, if any stand closed.

[Dictated to Athistamani, PS, transcribed by her, corrected and signed by me this 07th of April, 2026]

[Justice G. Chandrasekharan]
CHAIRPERSON