IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 13th of May, 2026

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

R.A (SA): 63/2023

(TSA No.114/2023 (old SA 128/2020 before DRT-I, Chennai) on the file of DRT -2, Chennai)

Between

1. M/s. ITG Energy Ltd
G-7, Gems Court
25, Khader Nawaz Khan Road
Nungambakkam
Chennai - 600 006

2. Mrs. Sahira Sadiq
W/o late Syed A Sadiq
No.201, Midwest Club Pkwy,
Oak Brook, IL 60523
USA

3. Mr. Syed Safaan Sadiq
S/o late Syed A Sadiq
No.201, Midwest Club Pkwy,
Oak Brook, IL 60523
USA

4. Ms. Saena Arifeen Sadiq
D/o late Syed A Sadiq
No.201, Midwest Club Pkwy,
Oak Brook, IL 60523
USA

5. Subhash Bhujbal
1-2, HIG Colony
Adyar Apartments
Kottur Garden
Chennai – 600 085

... Appellants

And

1. CSB Bank Ltd
(Formerly The Catholic Syrian Bank Ltd)
Mount Road Branch
Represented by its Authorised Officer
7th Floor, Rani Seethai Hall
603, Anna Salai
Chennai – 600 006.

2 . P.K. Peermohamed
S/o Kasalimaraikayar
No. 17, Balakrishnapuram 4th Street
Adambakkam
Kancheepuram – 600 088.

... Respondents

Counsel for Appellant	:	*Mr. R. Gowthama Narayanan*
Counsel for R1	:	*Ms. V. Rajeswari*
Counsel for R2	:	*Learned Sr. Counsel Mr. E. Omprakash for Ms. S. Anuradha Balaji*

O R D E R

1. Aggrieved against the final order passed in TSA 114/2023 (old SA 128/2020 on the file of DRT-I, Chennai) by the Learned Presiding Officer, DRT-II, Chennai, on 18.08.2023, the Applicants before the DRT filed this Appeal.

1.1 TSA No.114/22023 was filed to set aside the Sale Notice dated 03.08.2020 and sale held on 25.08.2020, mainly on the following grounds :

i. Classification of accounts as NPA is not in accordance with the guidelines issued by the RBI in its Master Circular;

ii. Demand Notice issued under Section 13(2) is illegal, since the 1st Respondent has no right to invoke the provisions of the SARFAESI Act, 2002;

iii. Possession Notice was not served on the mortgagor and possession of the property was not taken on 26.06.2018 as alleged;

iv. Publication of the Possession Notice was not done as required under Rule 8 of SIE Rules, 2002;

v. Security interest was not registered as required under Section 26-D of the SARFAESI Act, 2002;

vi. Sale Notice dated 03.08.2020 was not issued in accordance with Rules, nor was it duly served, published or affixed;

vii. The property was not brought for sale through E-auction;

viii. The property was undervalued and reserve price was fixed at low;

ix. The reserve price was drastically reduced without any justification; and

x. The property was brought for sale during Covid -19 pandemic and in fact it was sold for low price.

Learned Presiding Officer, on going through the records and submissions made by the Learned Counsel for the parties, rejected the grounds raised by Applicants and dismissed the Application. Hence, this Appeal has been filed.

2. Reiterating the grounds raised before the Tribunal, Learned Counsel for Appellants submitted that the Appellants

were regularly paying the loan dues along with interest. The Appellants were always maintaining the drawing limit within Rs.1.75 Crores, especially as on 31.03.2018. Interest payments were made regularly. Therefore, the classification of the account as NPA itself was illegal. The measures for taking possession and sale of the property were not followed as required under SARFAESI Act, 2002. The value of the property was fixed low. In the first Sale Notice dated 20.07.2018, the reserve price was fixed at Rs.5.08 Crores, however, in the subsequent sale, the reserve price was drastically reduced, and in the impugned Sale Notice dated 03.08.2020, the reserve price was fixed at Rs.2.05 Crores.

2.1 He further submitted that there is no evidence produced to show that the previous sale attempts failed because of the reason that there was no bidders. Instead of opting for E-auction, the sale was held by inviting tenders. No proper publication of tender notice was given. The Authorised Officer, who conducted the sale, had no authority, for the reason that,

he had retired from service and was engaged on contract employment.

2.2 The bidding was collusive between the two bidders. Both bidders had taken Demand Drafts for the EMD amount from the same Bank, and one of the bidders withdrew from the bidding, during course of process. One of the bidders had no wherewithal to pay the EMD amount but he was sponsored by the successful bidder to give a colour of competitive bidding. Further, the property was sold just for Rs.2.25 Cores. This shows that there is collusion among the bidders and the Bank officials.

2.3 The valuation report dated 23.07.2020 is inaccurate, cryptic and not proper. It was obtained to suit the convenience of the Bank for selling the property at low price. There is no reason given for reducing from market value from the guideline value. On the other hand, the valuation report filed by the Appellants shows that the property was valued much higher

than the value adopted by the Bank. In support of this, the Appellants had also produced the valuation obtained from the website of the 99 acres.

2.4 The publication of notice with regard to sale should have been widely published in newspapers having wide circulation. The newspapers like 'Dinamani' and 'The Indian Express' are not the leading and widely circulated newspapers compared to the other newspapers like 'Dinathanthi' and 'The Hindu'. Their readership is much lower than the readership of other newspapers. Therefore, it is clear that there was no wide publication of the sale notice. In support of his submission, he pressed into service the decision of **Tamil Nadu Organic Private Ltd. vs. State Bank of India,** reported in 2014 (2) CTC 465.

2.5 It is his further submission that the Appellants paid a sum of Rs.2,04,70,468.76p and a Memo has been filed in this regard. They have also made 50% of the amount as pre deposit. Thus, the Learned Counsel for Appellants prayed for

setting aside the order passed by Learned Presiding Officer, DRT-II, Chennai, by allowing this Appeal.

2.6 In support of his submissions, Learned Counsel for Appellants relied on the following judgements:

i) The decision in *II (2011) BC 124 (DB),* in the case of **Signal Apparels Pvt. Ltd. & Anr. Vs. Canara Bank & Arn.,** is relied for the proposition that *"it is mandatory for the bank to strictly follow the guidelines or directions issued by the administering or regulatory authority of such bank or the Reserve Bank and breach of such guidelines would invalidate the classification of account as NPA and render illegal the further steps towards securitisation or asset reconstruction."*.

ii) Master Circular of Reserve Bank of India dated 01.04.2023 is quoted to state that the classification of an asset as NPA should be based on the record of recovery. Bank should not classify an advance account as NPA merely due to the existence of some deficiencies which

are temporary in nature such as non-availability of adequate drawing power based on the latest available stock statement, balance outstanding exceeding the limit temporarily, non-submission of stock statements and non-renewal of the limits on the due date, etc.

iii) The decision in **Tamil Nadu Organic Private Ltd. Vs. State Bank of India** reported in *2014 (2) CTC 465* is relied for pressing the importance of e-auction to substantially reducing the unethical influence of the cartels and the syndicates, which are posing a serious threat to the healthy competition that is expected to take place during public auctions.

iv) Learned Counsel for Appellants relied on the decision in **the Maharashtra State Road Transport Corporation vs. Babu Goverdhan Regular Motor Service and Ors.,** reported in *1969 (2) SCC 746*, for the proposition that the form prescribed forms an integral part of the Rule, and therefore, the form prescribed under SIE Rules, 2002 in Appendix IV A refers about only E-

auction sale notice. Thus, the Sale Notice issued in this case should conform to the contents of the Appendix IV A. However, in this case, the sale notice is not issued in conformity with Appendix IV A. Instead of resorting to the e-auction sale, the Bank has proceeded to sell under the tender process.

v) The decision in **J. Rajiv Subramaniyan and Anr. Vs. Pandiyas and Ors.** reported in *(2014) 5 SCC 65*1, is relied for the proposition that the provisions of the SARFAESI Act, 2002 and the Rules made thereunder had been enacted to ensure that the secured asset is not sold for a song and the banks and financial institutions should ensure the sale of the secured assets provides maximum benefit to the borrower. The secured creditors are expected to take *bonafide* measures to ensure that there is maximum yield from such secured assets for the borrowers.

vi) The decision in **Pochiraju Industries Ltd. Vs. Punjab National Bank and Ors.**, reported in *2018 SCC*

OnLine Hyd 121, is relied for the proposition that it is mandatory for the bank to secure a fresh valuation from an approved valuer in terms of Rule 8(5) of the SIE Rules of 2002 before issuing a fresh sale notice. It is a case where the previous seven sale attempts failed for want of bidders during the period from 17.10.2015 to 18.01.2017. It was found that there is variation in the valuation intwo reports. There is no indication that Deputy Circle Head of the Bank has technical qualification to undertake such valuation. In the said background, it was held that the reserve price fixed was not accepted. Consequently, the sale was set aside.

vii) The decision in **Ram Kishun and Ors. Vs. State of Uttar Pradesh and Ors.**, reported in *(2012) 11 SCC 511*, is relied for the proposition that "there is a legal obligation on the part of the authority to sell the property in such a manner that it may fetch the best price. Essential ingredients of such sale remain a correct valuation report and fixing the reserve price. In case proper valuation has

not been made and the reserve price is fixed taking into consideration the inaccurate valuation, the intending buyers may not come forward treating the property as not worth purchase by them, as a money person or a big businessman may not like to involve himself in small sales or big deals."

3. In reply, the Learned Counsel for 1st Respondent submitted that there is no dispute raised by the Appellants with regard to the borrowal of the loan amount, classification of the account as NPA, issuance of Demand Notice, Possession Notice and Sale Notice. Appellants earlier filed SA 210/2018 seeking to set aside the Possession Notice. While that was pending, Appellants entered into OTS with the Bank, and thereafter, SA 210/2018 came to be disposed of as settled out of court. Therefore, Appellants cannot now agitate the issue relating to classification of account as NPA, or the defect in service of Possession Notice, etc. It is further submitted that earlier, nine sale attempts initiated by 1st Respondent had failed. On 10.12.2019, the Appellants approached the Bank for

OTS and the Bank approved the OTS proposal on 12.12.2019 for Rs.187 Lakhs, payable on or before 15.03.2020. The first instalment of Rs.56.10 Lakhs supposed to have been paid on or before 15.01.2020, but the Appellants have not paid the amount. Therefore, the Appellants were informed through e-mail on 22.01.2020 about the cancellation of the OTS offer.

3.1 Thereafter, Sale Notices dated 21.02.2020, 20.04.2020 and then 03.08.2020 i.e. the impugned Sale Notice came to be issued. The Appellants have not challenged any of the previous Sale Notices. Appellants received the impugned Sale Notice on 05.08.2020. The Sale Notice should have been challenged on or before 19.09.2020. The Appellants did not challenge the Sale Notice, but filed SA challenging the Sale Notice and sale within 45 days of sale. The Sale was confirmed on 26.08.2020. As per the request of the Auction Purchaser, on 02.09.2020, the Auction Purchaser was given time till 22.11.2020 for paying the balance 75% of the sale consideration. It was paid on 24.09.2020. The sale certificate was issued on 24.09.2020. If the Appellants want to challenge

the classification of the account as NPA, an objection should have sent on receiving of Demand Notice. However, no such Objection was sent.

3.2 The documents produced would show that the Appellants had not properly operated the accounts by paying the loan account and keeping withdrawal within the limit. The Appellants have to remit Rs.25 Lakhs every month to reduce the drawing limit. From 2016, Appellants have not paid the amount borrowed and interest. The account should have been closed by six months. Since that was not done, the account was classified as NPA on 31.03.2018. In SA 210/2018, the issue of classification of account as NPA was not raised at all. The property was properly valued, and reserve price was fixed. In the subsequent sale attempts, the reserve price was reduced. Appellants have not made any effort to redeem the property before publication of the Sale Notice. 'The Indian Express' and 'Dinamani' are the reputed newspapers having wide circulation. The Authorised Officer in this case has the authority to proceed under SARFAESI Act, 2002.

3.3 In support of his submissions, Learned Counsel for 1st Respondent relied on the following judgements:-

i) The decision in **K. Virupakasha & Anr. Vs. The State of Karnataka & Arn.**, reported in *CDK 2020 SC 308* for the proposition that if value of the property high as contended by the borrower, nothing prevents the borrower from getting a purchaser or a bidder to purchase the property for the said value and clear off the debt due. Without resorting to such a course, it is not open to the borrower to challenge the auction proceedings.

ii) The decision in **Sri T. S. Nataraj and Ors. Vs. State Bank of India and Ors.** in *WP No. 19756/2021 (GM-RES)* of Hon'ble High Court of Karnataka at Bengaluru dated 15.12.2022 is relied for the proposition that in case of multiple sale attempts, the borrower/guarantor had the notice of sale, and did not come forward to pay the amount and clear the dues and save the property from auction. The OTS offered to the Petitioner was not

availed. Therefore, the challenge after issuance of the sale certificate and an offer to pay the loan amount cannot be permitted.

iii) The decision in Writ Petition Nos. 33241 to 33243/2019 in **P.S. Sivaperumal and Anr. Vs. Authorised Officer and Anr.,** is relied for the finding given by Hon'ble High Court that Dinamani and Indian Express are reputed newspapers relied upon.

4 Learned Counsel for the Auction Purchaser submitted that the Auction Purchaser participated in the auction pursuant to the publication of Sale Notice in the newspaper. Within the stipulated time, the Auction Purchaser paid the balance sale consideration, following which the sale was confirmed in his favour and the sale certificate was issued. The Auction Purchaser produced the statement of account to show that he has means to pay the sale price. He got a loan from M/s. KOP Enterprise for buying this property. The auction was held properly and Auction Purchaser was the

successful bidder. Borrowers were fence sitters and watching the sale proceedings without making any effort to redeem the property by paying the loan amount. Only after the sale, they choose to challenge the sale measure. The issue of collusion between bidders was not taken up before the Tribunal. Thus, he prayed for dismissal of this Appeal.

4.1 In support of his submissions, Learned Senior Counsel for 2nd Respondent relied on the following judgements:-

i) The decision in **ARCE Polymers Private Limited Vs. Alphine Pharmaceuticals Private Limited and Ors.,** reported in (2022) 2 SCC 221 is relied for the proposition that when a party waived/abandoned certain grounds in earlier proceedings, those grounds cannot be taken in subsequent proceedings. Waiver may be contractual or by express conduct, a statutory right may also be waived by implied conduct, like by wanting to take a chance of a favourable decision. This decision is relied on the background that, having failed to raise any grounds in the earlier round of litigation while

challenging the Possession Notice, and having failed to challenge the previous Sale Notices, it is not open to the Appellant to challenge the grounds not raised earlier.

ii) The decision in **Janatha Textiles and Ors. Vs. Tax Recovery Officer and Anr.,** reported in *(2008) 12 SCC 582*, is relied for the proposition that the Auction Purchaser's interest in the auctioned property continues to be protected notwithstanding that the underlying decree is set aside or otherwise. For the same proposition, the decision in **Celir LLP Vs. Bafna Motors (Mumbai) Private Limited and Ors.,** reported in *(2024) 2 SCC* is relied. It is held in this decision that, it is the duty of the courts to zealously protect the sanctity of any auction conducted. The courts ought to be loath in interfering with auctions, otherwise it would frustrate the very object and purpose behind auctions and deter public confidence and participation in the same.

5. In reply, Learned Counsel for Appellants submitted that SA 210/2018 was disposed of in view of compromise. Earlier

Sale Notices were not challenged for the reason that Appellants approached the Bank for OTS. May be the Appellants had committed some defaults, but not to the extent the account to be classified as NPA. There is no justification for fixing the reserve price at low and reduce it in every sale. After the sale of the property, the Auction Purchaser mortgaged the property for Rs.5 Crores. It indicates the claim that the property was undervalued and sold for a low price.

6. Considered the rival submissions and perused the records.

7. There is no denial of availing the Overdraft facility in the year 2013 for a limit of Rs.2 Cores and its renewal during the year 2015 and 2017, limiting to Rs.1.75 Crores. One of the main grounds taken by Appellants is that the Appellants were servicing the loan by paying loan dues and interest, and therefore, the very classification of account as NPA is illegal and against the guidelines issued by RBI in its Master

Circular. On the other hand, it is the case of the first Respondent that as per the terms of the loan sanction, and as per the renewal of Overdraft credit facility from Rs.2 Crores to R.1.75 Crores for the period of six months with interest calculating with monthly rests, the Appellants had to reduce drawing power in the renewed account by Rs.25 Lakhs every month, starting from April, 2017. This condition was violated by Appellants. They have not reduced the drawing limit from April, 2017. There is excess drawing for a period of 90 days, and the loan was not serviced by paying interest regularly, and that was the reason for classification of account as NPA on 31.03.2018.

8. The letter dated 30.03.2017, renewing the credit facilities for a further period of six months to a tune of Rs.1.75 Crores, specifically states that the ODBD limit is reduced to Rs.1.75 Crores. Drawing power in the account should be reduced by Rs.25 Lakhs every month, starting from April 2017 onwards. An undertaking to this effect was submitted, and Appellants were advised to reduce /close the limit in the phased manner,

within the expiry of the sanctioned period. Since that has not happened, the account was classified as NPA.

9. Appellants have not produced any document to show that the loan was serviced regularly, and interest payment made and the drawal was kept within limits and reduced by paying Rs.25 Lakhs every month, starting from April, 2017. Though it is claimed that the Objection had been sent to the Demand Notice issued under Section 13(2) of the SARFAESI Act, 2002, said Objection is not produced either before the DRT or before this Tribunal. The Master Circular of Reserve Bank of India dated 01.04.2023 on prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances, deals with NPA in clause 2. It reads as follows:-

> *"2.1 Non-performing Assets*
>
> *2.1.1 An asset, including a leased asset, becomes non-performing when it ceases to generate income for the bank.*
>
> *2.1.2 A non-performing asset (NPA) is a loan or an advance where;*

i. interest and/ or instalment of principal remains overdue for a period of more than 90 days in respect of a term loan,

ii. the account remains 'out of order' as indicated at paragraph 2.2 below, in respect of an Overdraft/Cash Credit (OD/CC),

iii. the bill remains overdue for a period of more than 90 days in the case of bills purchased and discounted,

iv. the instalment of principal or interest thereon remains overdue for two crop seasons for short duration crops,

v. the instalment of principal or interest thereon remains overdue for one crop season for long duration crops,

vi. the amount of liquidity facility remains outstanding for more than 90 days, in respect of a securitisation transaction undertaken in terms of the Reserve Bank of India (Securitisation of Standard Assets) Directions, 2021 as amended from time to time.

vii. in respect of derivative transactions, the overdue receivables representing positive mark-to-market value of a derivative contract, if these remain unpaid for a period of 90 days from the specified due date for payment.

2.1.3 In addition, an account may also be classified as NPA in terms of certain specific provisions of this Master Circular, including inter alia Paragraphs 4.2.4, 4.2.9 and Part B2.

2.2 'Out of Order' status

2.2.1 A CC/OD account shall be treated as 'out of order' if:

i) The outstanding balance in the CC/OD account remains continuously in excess of the sanctioned limit/drawing power for 90 days, or

ii) The outstanding balance in the CC/OD account is less than the sanctioned limit/drawing power but there are no credits continuously for 90 days, or the outstanding balance in the CC/OD account is less than the sanctioned limit/drawing power but credits are not enough to cover the interest debited during the previous 90 days period."

Account statement shows there was overdrawal for more than 90 days. Interest was not paid. Drawal limit was not reduced by paying Rs.25,00,000/- every month. .In the said circumstances, this Tribunal is of the view that, the Bank has classified the account as NPA on following the guidelines issued by the Reserve Bank of India and the claim of the

Appellants that the Bank has not followed the guidelines issued by RBI, on classifying the account as NPA, is not tenable. It is made clear that there was excess drawing for more than 90 days, the loan was not serviced by paying interest regularly, and the drawing limit was not reduced from April, 2017, therefore, the account was classified as NPA. In this view of the matter, this Tribunal finds that the decision relied on by Learned Counsel for Appellants in **Signal Apparels Pvt. Ltd. & Anr. Vs. Canara Bank & Arn.,** reported in *II (2011) BC 124 (DB),* is not useful to the case of the Appellants.

10. Certain grounds have been raised with regard to service of Possession Notice. The prayer in this SA is confined only with regard to Sale Notice dated 03.08.2020 and sale held on 25.08.2020. Admittedly, the Appellants filed SA 210/2018 to set aside the Possession Notice, and on reaching the settlement, the said SA was not prosecuted further. The issues raised in respect of Possession Notice, in the absence of any prayer, especially, when SA 210/2018 filed to set aside the

Possession Notice was disposed of, and in the light of production of documents to show the service of Possession Notice, and by affixture and publication, cannot be considered in this Appeal.

11. The main focus of the Appellants in this Appeal is, the sale of the property starting from issuance of Sale Notice, mode of sale, undervaluation, reduction of reserve price, collusion between two bidders and the Bank officials, and non-payment of balance sale consideration within 15 days of sale. One more ground taken was that the Authorised Officer was incompetent to conduct the sale for the reason that he retired from the service and was on contract employment.

12. The term "Authorised Officer" is defined in Rule 2 (a) of the SIE Rules, 2002, it reads as follows:

> *"Authorised officer" means an officer not less than a chief manager of a public sector bank or equivalent, as specified by the Board of Directors or Board of Trustees of the secured creditor or any other person or*

authority exercising powers of superintendence, direction and control of the business or affairs of the secured creditor, as the case may be, to exercise the rights of a secured creditor under the [Act];

13. In the case before hand, the Authorised Officer, Mr. T. V. Rajan, Chief Manager, Zonal Office, Chennai of Corporation Bank, was relieved by proceedings No. PAD: OR308:E-206508:2019-20 dated 29.02.2020, on attaining superannuation. Thereafter, he was appointed as Chief Manager by the 1st Respondent Bank, in Asset Recovery Branch, Chennai. He joined on 16.03.2020 and his date of retirement was 29.02.2020. The impugned Sale Notice was issued when he was working as the Chief Manager in 1st Respondent Bank, and therefore, there is no illegality in the conduct of sale proceedings by the Authorised Officer, Mr. T. V. Rajan.

14. The reading of the Securitisation Application shows that there is no specific plea taken with regard to non service of

Sale Notice either through postal service, publication or affixture. However, it is claimed that Sale Notice published in 'The Indian Express' and 'Dinamani' is not sufficient to meet the requirement under Rule 8(6) of SIE Rules, 2002, for the reason that, these newspapers are not widely circulated newspapers. However, this contention was vehemently denied by the Bank stating that 'The Indian Express' and 'Dinamani' newspapers are reputed and widely circulated newspapers. Learned Counsel for the Appellants produced readership statistics to show that 'The Indian Express' and 'Dinamani' newspapers do not stand on top in terms of ranking in readership, especially, 'Dinamani'.

14.1 The readership information is produced on the basis of Wikipedia information. The information furnished in the Wikipedia cannot be considered as authentic and perfect unless the information is corroborated by authentic notification. What is required to be seen is whether the Sale Notice was published in widely circulated newspapers. There is no requirement that among the widely circulated

newspapers, the Sale Notice should be published in top ranking widely circulated newspapers. It is pertinent to refer to the decision of the Hon'ble High Court of Madras in **P.S. Sivaperumal and Anr. Vs. Authorised Officer and Anr.,** in Writ Petition Nos. 33241 to 33243/2019, wherein it is held that 'Indian Express' and 'Dinamani' are reputed and widely circulated newspapers, and therefore, the contention raised in this regard, cannot be sustained.

15. One more ground raised is non registration of mortgage under CERSAI. This is dispelled by production of copy of registration of security interest with the Central Registry of Securitisation Asset Reconstruction and Security Interest of India by Appellant Bank.

16. Coming to the sale of the property, it is admitted even in the Securitisation Application that there had been multiple sale attempts prior to the impugned Sale Notice dated 03.08.2020. It is pleaded in the SA that the reserve price which was fixed at Rs.5,08,00,000/- at the time of sale notice

dated 20.07.2018 was subsequently reduced to Rs.4,06,33,000/-, Rs.3,25,00,000/-, Rs.2,96,00,000/-, Rs.2,53,00,000/-, Rs.2,27,70,000/- and Rs.2,05,00,000/- in the impugned sale notice dated 03.08.2020. The previous Sale Notices dated 20.07.2018, 20.09.2018, 21.12.2018, 08.03.2019, 03.05.2019, 22.07.2019, 05.09.2019, 21.02.2020 and the impugned Sale Notice dated 03.08.2020 are produced in the type set.

17. As per the Sale Notice, the secured asset was sought to be sold inviting tenders from the general public. The terms and conditions of the tender/sale notice are also available with the Sale Notice. Rule 8(5) of SIE Rules, 2002 empowers the Authorised Officer to sell the secured asset in 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.

Therefore, sale by inviting tenders from the public cannot be questioned. The Sale Notice largely conforms to Appendix IV-A of the SIE Rules, 2002. Therefore, the decision relied on by the Appellants in **Maharashtra State Road Transport Corporation vs. Babu Goverdhan Regular Motor Service and Ors.,** reported in *1969 (2) SCC 746*, is not applicable to this case.

18. There is no specific pleading in the Securitisation Application as to whether the previous eight Sale Notices were not served, not published and not affixed. Appellants have not challenged any of the Sale Notices issued starting from 20.07.2018 to 21.02.2020. Therefore, Appellants cannot raise any issues in respect of these Sale Notices.

19. As stated in the pleadings, the reserve price fixed at Rs.5,08,00,000/- in the first Sale Notice dated 20.07.2018 was reduced in the subsequent Sale Notices. Ultimately, the reserve price was fixed at Rs.2,05,00,000/- in the impugned Sale Notice dated 03.08.2020. The sale proceedings show that two bidders namely Mr. P.K. Peer Mohammed and Mr. Akbar Ali participated in the tender process. Mr. P.K. Peer Mohammed and Mr. Akbar Ali had quoted in the tender Rs.2,05,00,000/- as their offer. Therefore, the Authorised Officer decided to conduct the sale by auction between them. Mr. P.K. Peer Mohammed offered Rs.2,05,05,000/- followed by offer of Rs.2,05,10,000/- by Mr. Akbar Ali, then Mr. P.K. Peer Mohammed offered Rs.2,05,15,000/- followed by an offer of Rs.2,05,20,000/- from Mr. Akbar Ali and Mr. P.K. Peer Mohammed raised his offer to Rs.2,05,25,000/-. At this juncture, Mr. Akbar Ali decided to withdrew from the bid. As a result, Mr. P.K. Peer Mohammed was declared as the successful bidder.

20. Apart from the grounds urged for challenging the sale, two important grounds on which the Appellants challenged the sale are that, the property was grossly undervalued and the reserve price was fixed at low and was sold for just a few thousands above the reserve price. The co-bidder actually not a competitive bidder, but a bidder set up by the successful bidder/Respondent No.2. It is seen that during the first sale attempt, the reserve price was fixed at Rs.5,08,00,000/- and it was reduced in every subsequent sale notice. Prior to the impugned sale notice, the Respondent Bank got a valuation report dated 23.07.2020, and Appellants got valuation report dated 30.12.2020, of course, subsequent to the sale of the property. As per Appellants' valuation report, the fair market value of the property was Rs.4.50 Crores as per land value-method-I; Rs.4.93 Crores as per land value –method-II and Rs.4.25 Crores as per land value after discount of 10% after the Corona pandemic. The Bank's valuation report shows that the valuation of the land as per guideline value obtained from www.tnreginet.net, by adopting GLR for 25395.48 sq. ft. at Rs.1675 sq. ft., was Rs.4,25,37,429/-. The value as per

prevailing market rate was Rs.950 sq. ft. to 1100 sq. ft. He adopted the value at Rs.950/- sq. ft., after considering the characteristics of the plot, and fixed the value at Rs.2,41,25,706/- (25395.48 X 950).

21. It is stated in column 10 of the valuation report as assumption or remarks as follows:-

10.	***Assumption or remarks***
	** It is certified that the prevailing market rate is adopted after proper local enquiry is made.* ** Enquiry made in the locality reveals that few auctions published in the last two years had failed because no bidders and apprehension of litigation.* ** Lesser rate is adopted due to global recession and due to economic slump due to COVID 19.* ** The market value of the property under inspection is assessed taking into*

	consideration its poor market condition and the failure of earlier auctions.
	Fair Market Value (Land) = Rs. 2,41,25,706/- *To Say = Rs. 2,41,26,000/-*
	Realizable Sale Value (90%) = Rs. 2,17,00,000/- *Distress Sale Value (85%) = Rs. 2,05,00,000/-*

This assumption or remarks shows that the fair market value of the land was Rs.2,41,25,706/-, realizable sale value at 90% was Rs.2,17,00,000/- and distress sale value at 85% was Rs. 2,05,00,000/-. To reach this value, it was stated in the assumption or remarks column as follows:

i. The market rate is adopted after local enquiry,

ii. Few auctions published in the last two years had failed because of no bidders and apprehension of litigation,

iii. Lesser rate is adopted due to global recession and due to economic slump due to COVID 19.

iv. The market value is assessed taking into consideration its poor market condition and the failure of earlier auctions.

22. The market value of the land as per Appellants' valuation was Rs.4.25 Crores. As per the Respondent's valuation, the guideline value of the land was Rs.4,25,37,429/-. When the guideline value was at Rs.1675 per sq. ft., it is not known on what basis the Valuer adopted the value of land at Rs.950/- per sq. ft., for determining the market value. The reasons for fixing the market value at Rs.2,41,25,706/- in assumption or remarks column, is not supported by any concrete evidence. What is the local enquiry made?. If enquiry is made, with whom he made the local enquiry?. Nothing has been indicated. When he stated that few auctions published in the

last two years had failed because of no bidders, he must have indicated the details of failed auctions. That is not done. The apprehension of litigation may be a reason for avoiding of litigious sale, but that may not be the reason for reducing the market rate. It was stated that there was a global recession and economic slump due to COVID 19. May be it is true. Whether that is the reason for reducing the price from guideline value from Rs.4,25,37,429/- to market value of Rs.2,41,25,706/-? Without a data as to whether global recession and economic slump due to COVID 19 contributed to the reduction of market value of the property, especially, in the area where the land in dispute is situate, the reduction of the market value cannot be justified. The generalized terms "poor market condition" for reducing the market value is not supported by any data. The failure of earlier auctions is not a ground for reducing the market value when guideline value is much higher.

23. Generally, the market value would be more than the guideline value except, of course, in some cases, the market

value would be less than the guideline value. Guideline value is the minimum benchmark set by the Government for stamp duty. When the Valuer found that the guideline value of the land at Rs.4,25,37,429/- adopting Rs.1675 per sq. ft, he adopted the lesser market value at Rs.950/- per sq. ft. This decision must be justified by obtaining copies of the sale deed in respect of sales that had taken place during the relevant period, near the land in question, to justify the reason for adopting Rs.950/- per sq. ft., as market rate when the guideline value was at Rs.1675/- per sq. ft. The Valuer has taken only 56.71% of the value from Rs.4,25,37,429/- to determine the market value of land at Rs.2,41,25,706/-. Even as per the Recovery Policy, 2020 of the Respondent Bank, the reserve price should be a minimum of 80% of the fair market value/saleable value of the property. It is therefore, clear that the land was grossly undervalued. It is a settled proposition of law that when Banks and Financial Institutions are empowered to take possession and sell the secured asset without the intervention of Courts or Tribunals, a duty cast upon them to ensure that the property is properly valued so as

to fetch the best price, fix reserve price and then sell the same. Here in this case, it is evident from the evidence produced that the property was grossly undervalued leading to fixation of a lesser reserve price and sale of the property for insufficient price.

24. Admittedly, the Respondent No.2 was declared as the successful bidder. It is claimed by the Appellants that the co-bidder Mr. Akbar Ali was sponsored by 2nd Respondent himself to participate in the bid so as to make it appear a competitive bidding. The Demand Draft towards the EMD amount was procured by Respondent No.2 on behalf of Akbar Ali, and after sometime, Mr. Akbar Ali withdrew from the bid.

25. It is the case of the Respondent No.2 that Respondent No.2 is a man of means and is the director of certain companies. One of the companies, gave loan to Akbar Ali to take Demand Draft in favour of Akbar Ali.

26. It is pertinent to refer to the Application in IA 424/2025 filed by the Appellants seeking the following reliefs:-

"For the reason stated in the accompanying affidavit the petitioners prays that this Hon'ble Tribunal may be pleased to direct the 3rd Respondent to furnish evidence by affidavit on the following facts:

(i) On 24.08.2020 in A/c. of KOP Enterprises P Ltd (Ac. No. CCOD-113120000126092) Cheque No.2847 for Rs.20,50,000/- was issued and the amount was debited.

Whether this amount was credited to the A/c of P.K.Peer Mohammed (Ac.No.113001001018630)

(ii) On the same day that is, on 24.08.2020, there is an entry in the account of P.K.Peer Mohammed debiting the same amount of Rs.20,50,000/-

Was this amount used for purchase of DD, and if so, what is the date and Number of DD and in whose favour the DD was purchased.

(iii) On the same day, that is, on 24.08.2020, in the A/c. KOP Enterprises P Ltd (Ac.No.CCOD - 113120000126092) Cheque No. 2846 was issued for Rs.20,50,000/- and the amount was debited.

Was this amount used for purchase of DD, and if so, what is the date and Number of DD and in whose favour the DD was purchased."

This Application was filed alleging that P.K. Peer Mohammed purchased the Demand Draft in the name of Akbar Ali and it is evident from the account statement produced by P.K. Peer Mohammed. From the account statement for the period between 24.08.2020 and 25.08.2020, two Cheques have been cleared for Rs.20.50 Lakhs. Mr. P. K. Peer Mohammed withdrew this amount and purchased the Demand Draft in his name and in the name of Mr. Akbar Ali.

27. This contention was denied by the Auction Purchaser. The case of the Auction Purchaser was that Rs.20.50 Lakhs was funded by a company in which P.K. Peer Mohammed was a

director, for getting Demand Draft in the name of Mr. Akbar Ali. However, it is submitted that, it does not mean that there was no competitive bidding.

27.2 This Application was dismissed for the reason that, when there was an admission on the part of P.K. Peer Mohammed that his company alone funded Mr. Akbar Ali for taking Demand Draft for Rs.20.50 Lakhs. What is relevant is that the sum of Rs.20.50 Lakhs required for submitting Demand Draft by Akbar Ali, was sponsored by either Mr. P.K. Peer Mohammed or by the company in which he was a director i.e. M/s. K.O.P. Enterprises Private limited. When a co-bidder is supported by the other co-bidder, for paying EMD, it is obvious that a competitive bidding cannot be expected.

28. The sale proceedings shows that both the bidders, Akbar Ali and P.K. Peer Mohammed, submitted their EMDs for Rs.20.50 Lakhs drawn on City Union Bank Ltd., in Demand Draft No. 609373 dated 24.08.2020 in favour of P.K. Peer Mohammed and Demand Draft No.609375 dated 24.08.2020

of Rs.20.50 Lakhs drawn on the City Union Bank Ltd. Both bidders quoted the tender amount at Rs.2,05,00,000/-, i.e., exactly the same amount. Since both the bidders quoted the same amount, the Authorised Officer decided to conduct an auction between two bidders. As already extracted above, there was marginal increase in the supposedly competitive bidding, and at one stage, Akbar Ali withdrew from the auction. Mr. P.K. Peer Mohammed was declared as the successful bidder for a sum of Rs.2,05,25,000/-. Though the reserve price was fixed at Rs.2,05,00,000/-, the property was sold for just Rs.25,000/- above the reserve price. The way both the bidders obtained Demand Drafts on the same day with one Demand Draft separating the two Demand Drafts got by them, and offered the same quote of Rs.2,05,00,000/- and a marginal increase of Rs.5,000/- each in every bid, and ultimately withdrawal of the bid by Akbar Ali, shows that it is not a competitive bid at all, but a make it believe competitive bidding, rather a farce bidding. Collusion between the bidders is obvious, with or without the consent or knowledge of the Respondent Bank.

29. There is no doubt that the Auction Purchaser's right has to be protected. When the property was grossly undervalued and sold for an insufficient price and there is collusion between the bidders, such a tainted sale cannot be permitted to stand, merely because previous sale attempts failed.

30. The decisions relied on by Learned Counsel for Appellants in,

i) **J. Rajiv Subramaniyan and Anr. Vs. Pandiyas and Ors.** reported in *(2014) 5 SCC 651*,

ii) The decision in **Pochiraju Industries Ltd. Vs. Punjab National Bank and Ors.**, reported in *2018 SCC OnLine Hyd 121,*

iii) The decision in **Ram Kishun and Ors. Vs. State of Uttar Pradesh and Ors.**, reported in *(2012) 11 SCC 511*, support this view.

31. The decisions relied on by the Learned Counsel for Respondents would have helped the Respondents had the sale been held on the basis of a proper valuation of the secured asset. When this Tribunal found, that had not happened in this case, and the property was sold for insufficient price, the decisions relied on by Respondents, are of no use to advance the case of the Respondents.

32. In this view of the matter, this Tribunal while affirming the measures taken under SARFAESI Act, 2002 till issuance of Possession Notice under Section 13(4) of the SARFAESI Act, 2002, sets aside the measures taken for the sale of the property starting from obtaining the valuation report, fixing the reserve price, issuance of Sale Notice and sale of the property.

33. In the result, the following order is passed:-

i. The order passed in TSA 114/2023 by the Learned Presiding Officer, DRT-II, Chennai is set aside;

ii. The Sale Notice dated 03.08.2020 and the sale held on 25.08.2020 in pursuance of this Sale Notice are set aside, and TSA 114/2023 is allowed ;

iii. The 1st Respondent Bank is directed to refund the sale consideration to Respondent No.2, with interest applicable to Fixed Deposit from the date of deposit till the date of payment by the1st Respondent Bank;

iv. The 2nd Respondent is entitled for registration charges and stamp duty with interest at 6% p.a. (simple) from the date of registration of sale deed till the date of payment;

v. The 1st Respondent Bank is directed to proceed with fresh sale measures in respect of the secured asset, in accordance with law;

vi. Accordingly, this Appeal in RA (SA) 63/2023 is allowed.

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 in open court this 13th of May, 2026]

[*Justice* G. Chandrasekharan]
CHAIRPERSON