IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 11th day of May, 2026

PRESENT: HON'BLE MR. JUSTICE G. CHANDRASEKHARAN
CHAIRPERSON

RA(SA) 129/2025
(arising out of TSA No.151/2022 on the file o DRT-II, Chennai)

Between

M/s Gelind Tech Consultants
Rep. by its Managing Partner,
Mr. K. Karuppiah
No.3, 1st Street, Indira Nagar,
Medical College Road,
Thanjavur 613 004.

.....Appellant

And

The Authorised Officer,
City Union Bank Ltd.,
Thanjavur Medical College Branch,
No.322/31, Sundaram Nagar,
Medical College Road,
Thanjavur 613 004.

.....Respondent Bank

For Petitioner : Party appeared in person
Counsel for Respondent Bank : M/s Ananda Gomathy & Co.

ORDER

1. This appeal is filed under Section 18 of the SARFAESI Act, against the final order dated 24.3.2023 passed in TSA No.151/2022 by Learned Presiding Officer, DRT-II, Chennai.

2. The appellant is a Partnership Firm and represented by its partners, it availed a loan of Rs.1.25 crores towards Overdraft Facility and a sum of Rs.50.00 lakhs towards Inland Bank Guarantee. In order to secure the aforesaid loan, the Managing Partner of the partnership firm Mr. K. Karuppiah offered his property as security interest and created equitable mortgage over the same described in the schedule, by deposit of title documents on 3.3.2017. The other partner viz., Mr. Sathishkumar, represented through his General Power of Attorney, Mr. Thirumurthy also created equitable mortgage over his property on 3.3.2017 by deposit of title documents. The loan facility was enhanced subsequently and the equitable mortgage already created was extended by the mortgagors for the enhanced limits. The loan account was classified as NPA and measures under Section 13(4) of the SARFAESI Act were taken, followed by obtaining orders under Section 14 of the SARFAESI Act. In

the said background, TSA No.151/2022 (SA No.413/2022 on the file of DRT-I, Chennai) was filed for the following relief:

> "Restore the physical possession of Item No.1 of schedule property which was illegally taken by the Advocate Commissioner on 9.9.2022 through notice dated 17.8.2022 in pursuant to the order dated 5.7.2022 passed in Crl.M.P.No.453/2022 by the Hon'ble Chief Judicial Magistrate at Kumbakonam and consequently set aside the measures taken by the defendant bank in pursuant to the impugned order dated 5.7.2022 passed in Crl.M.P.No.453/2022 by the Hon'ble Chief Judicial Magistrate at Kumbakonam in accordance with Section 14 of SARFAESI Act, 2002."

3. It is the case of the appellant that, Learned Presiding Officer, DRT-II, Chennai, without considering the merits of the case, especially, the payments made in the connected SA No.260/2021 filed for challenging the sale notice dated 4.9.2021 and the payments made in the SA now under challenge i.e., TSA 151/2022 and that Order under Section 14 of the SARFAES Act, was passed without complying the requirements under Section 14 of the Act, dismissed the SARFAESI application. Thus, this appeal.

4. Appellant appeared in person and argued his case.

5. The main grievance of the appellant is that loan account was classified wrongly as NPA. There are discrepancies in the amounts demanded as due in the Section 13(2) Demand Notice and in the statement of

accounts filed. There is also discrepancy as to the date of classification of account as NPA. Section 13(2) Demand Notice refers the date of NPA as 26.11.2020. However, in the communication sent on 4.3.2021 appellant was asked to pay the balance amount in OSL Special Loan and FTTL loan and also informed that OD account interest to be serviced as Rs.4,37,325/-. Appellant was warned to pay the demand to avoid slippage into NPA. This communication shows that till 4.3.2021, the account was not classified as NPA. However, on the basis of alleged classification of the account as NPA on 26.11.2020, the order under Section 14 of the SARFAESI Act was obtained.

6. He further submitted that appellant comes under MSME category and there was restructuring framework available for MSME units that slipped into NPA. No measure was taken as mandated by RBI Circular in this regard for retrieving the situation of the appellant. Thus, appellant was deprived of the benefit under MSME restructuring framework, as per RBI Circular.

7. He further submitted that during the pendency of the SA, appellant paid substantial amount to the tune of Rs.1.58 crores. Apart from the payment of Rs.95.00 lakhs paid by the one of the partners viz. Mr.

Sathishkumar to release his property and payment of Rs.25.00 lakhs by the appellant in SA No.260/2021, appellant also paid a sum of Rs.29.11 lakhs on 15.2.2023 in this SA viz. TSA 151/2022. Without considering the defects in the order passed under Section 14 of the SARFAESI Act and the aforesaid payments made by the appellant, learned Presiding Officer dismissed the SA. Aggrieved by the order, this appeal is filed.

8. In reply, learned counsel for respondent bank submitted that the loan account was originally classified as NPA on 26.11.2020 on the basis of the continuous overdrawal in the account. On classification of the account as NPA on 26.11.2020, subsequent interest had been calculated, that was the reason for the discrepancy in the accounts statement and in the Section 13(2) demand notice. Discrepancy occurred for the reason that interest from the date of classification as NPA till 28.4.2021 was added in the demand notice dated 29.4.2021. There was a stay order passed by the Hon'ble Supreme Court of India on the classification of the account as NPA. Therefore, letter was sent on 4.3.2021 advising the appellant to regularize the loan account. However, the stay order was vacated on 23.3.2021. Thereafter, classification of the account as NPA based on the guidelines of RBI was done. Even after the letter dated 4.3.2021 and demand notice dated 29.4.2021, appellant had not

paid any amount towards the loan due to the bank. Therefore, further measures were taken by issuing Section 13(4) possession notice and for obtaining order under Section 14 of the SARFAESI Act and physical possession was taken. SA No.260/2021 was filed challenging the sale notice dated 4.9.2021 and the same was dismissed for want of bidders. Subsequently, fresh sale notice was issued on 11.7.2025, fixing the sale on 4.8.2025. Sale was held successfully. Sale was confirmed, sale certificate was issued and registered. Physical possession was handed over to the auction purchaser. Order under Section 14 of the SARFAESI Act was passed after following the procedure.

9. With regard to the claim of the appellant under MSME as per the RBI circular, learned counsel for the respondent bank pressed into service the decision of Hon'ble High Court of Madras, in re, **Jaishith Jebakumar Manuel and others Vs. Srinath and others** reported in MANU/TN/0543/2026 for the proposition that benefits of MSME will not enure when bank initiated proceedings under the SARFAESI Act by observing the necessary procedure . Thus contending, Learned counsel for the respondent bank prayed the Tribunal to dismissed appeal.

10. I have considered the rival submissions and perused the records.

11. From the perusal of the pleadings, submissions made by the appellant, who appeared in person and the learned counsel appearing the respondent bank, it is evident that appellant is a partnership firm and had seven partners. To avail Overdraft facility in the year 2017 to the tune of Rs.1.25 crores from the State Bank of India, which was subsequently taken over by the respondent bank viz., City Union Bank, two properties were offered as security, of which, one is the residential property belong to Mr. K. Karuppaiah in Thanjavur and the other is residential property belong to Shri Sathishkumar in Coimbatore. It is informed by both parties that Shri Sathishkumar paid Rs.90.00 lakhs towards the loan account and his property was released from security interest created in favour of the respondent bank.

12. There is no dispute with regard to receipt of Section 13(2) demand notice and Section 13(4) possession notice. Application under Section 14 of the SARFAESI Act was filed only in respect of appellant, Mr. K. Karuppiah's property in Thanjavur. It is a settled proposition of law that scope of the application filed under Section 14 of the SARFAESI Act is limited. Concerned Chief Metropolitan Magistrate or District Magistrate is required to verify as to whether the requirements under Section 14 (1) proviso, clauses (i) to (ix) are complied with and an affidavit in this

regard is filed by the Authorised Officer of the Bank. Except the submission made by the appellant as stated above, with regard to classification of loan account as NPA, discrepancy in the loan amount demanded and the claim of benefit under MSME scheme, there is no other ground raised with regard to any act of omission or commission by the Authorised Officer in filing the application under Section 14 of the SARFAESI Act and any defect in the order passed by the Learned CJM under Section 14 of the SARFAES Act.

13. It is seen from the accounts statement produced and made available in the typed set of papers, there had been continuous overdrawal in the OD facility, especially during the period prior to classification of the account as NPA on 26.11.2020. All the payments said to have been made by the appellant are only after the initiation of the proceedings under the SARFAESI Act and during the pendency of SA No.260/2021 and TSA No.151/2022. There is no material produced to show that after receipt of Section 13(2) demand notice and even after 60 days, amount due was paid by the appellant.

14. What we are concerned here is, whether order passed under Section 14 of the SARFAESI Act was passed in compliance with the proviso to

Section 14 of the SARFAESI Act or not. Subsequent payments made by the appellant, will in no way, affect the merits of the order, as the order was passed on merits. Learned CJM is not required to make a roving enquiry in the application filed under Section 14 of the SARFAESI Act. This Tribunal finds from the material produced that requirement under Section 14 of the SARFAESI Act are fulfilled and the order was passed properly by the Learned CJM, by allowing the application.

15. There is no ground made out to set aside the order passed by Learned CJM, Kumbakonam dated 5.7.2022. Therefore, the order passed by the Learned Presiding Officer, DRT-II, Chennai dated 24.3.2023 in TSA No.151/2022 is confirmed.

16. **In the result,** Appeal RA(SA) 129/2025 is dismissed.

17. Parties are directed to bear their own costs.

18. Pending IAs, if any, stand closed.

[Dictated to PS (SN) transcribed by him, corrected, signed and pronounced by me in open court, this 11th May, 2026)

Sd/-

(JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON