IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 4th day of June, 2026

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

RA(SA) 8/2025
&
MA (SA) 10/2025
(arising out of SA 299/2019 and IA 1351/2022 in SA No.299/2019 on the file of DRT-I, Bangalore)

I. <u>RA(SA) 8/2025</u>

Between

M/s Vaishnavi Structures Pvt. Ltd.
Represented by Mr. Srinivasa N.
No.43/1, Tumkur Road,
Next to Union Bank of India,
Yeshwanthpur,
Bangalore 560 022.

....Appellant

And

1. Bank of Baroda,
   Palace Orchards Branch,
   Represented by Authorised Officer,
   No.3, Old No.386, 13th Cross,
   Near Bashyam Circle,
   Sa`dashivanagar,
   Bengaluru 560 080.

2. Smt. S. Uma,
   W/o N. Srinivasa,
   M/s Vaishnivi Structures Pvt. Ltd.,
   No.43, Tumkur Road,
   Next to Union Bank of India,
   Yeshwanthpur,
   Bangalore 560 022.

...Respondents

Counsel for the appellant	:	M/s S. Vinod & Periasamy
Counsel for 1st Respondent Bank	:	Senior counsel Mr. Srinath Sridevan for M/s Ramalingam & Associates
Counsel for 2nd Respondent	:	M/s T.R. Sundaram

II. MA(SA) 10/2025

Between

M/s Vaishnavi Structures Pvt. Ltd.
Represented by Mr. Srinivasa N.
No.43/1, Tumkur Road,
Next to Union Bank of India,
Yeshwanthpur,
Bangalore 560 022.

....Appellant

And

1. Bank of Baroda,
   Palace Orchards Branch,
   Represented by Authorised Officer,
   No.3, Old No.386, 13th Cross,
   Near Bashyam Circle,
   Sandashivanagar,
   Bengaluru 560 080.

2. Smt. S. Uma,
   W/o N. Srinivasa,
   M/s Vaishnivi Structures Pvt. Ltd.,
   No.4/1, Tumkur Road,
   Next to Union Bank of India,
   Yeshwanthpur,
   Bangalore 560 022.

...Respondents

Counsel for the appellant	:	M/s S. Vinod & Periasamy
Counsel for 1st Respondent Bank	:	Senior counsel Mr. Srinath Sridevan for M/s Ramalingam & Associates
Counsel for 2nd Respondent	:	M/s T.R. Sundaram

COMMON ORDER

1. These two appeals, viz., RA(SA) 8/2025 and MA(SA) 10/2025 are filed under Section 18 of the SARFAESI Act against the order dated 10.2.2023 passed in SA No.299/2019 and IA No.1351/2022 in SA No.299/2019 respectively.

2. Appellants filed SA No.299/2019 to quash and set aside the Possession Notice dated 6.6.2019 issued by the first respondent bank and for other consequential and incidental reliefs. Learned Presiding Officer, DRT-I, Bangalore on the basis of the records produced and the submissions made by Learned Counsel appearing for parties dismissed the SA on 10.2.2023. Thus, this Appeal RA (SA) 8/2025 is filed.

3. MA(SA) No.10/2025 is filed to set aside the order dated 10.2.2023 passed by Learned Presiding Officer, DRT-I, Bangalore in IA No.1351/2022 in SA No.299/2019. IA No.1351/2022 was filed to take cognizance of the willful disobedience committed by the Authorised Officer of the first respondent bank, viz., Mr. Sudhakar Bhai Tripathi Asst. General Manager, in proceeding further with the SARFAESI measures when stay order passed by

DRT in IA 1703/2019 on 13.6.2019 in SA No.299/2019 was in force. On dismissal of this application, MA (SA) No.10/2025 is filed.

4. As already stated, appellants filed SA No.299/2019 to set aside the possession notice dated 6.6.2019 on the grounds that,

   a) Proceedings initiated under SARFAESI Act is arbitrary, illegal and unlawful.

   b) Possession Notice issued is not in accordance with SARFAESI Act

   c) The Possession Notice was not signed by the Authorised Officer.

   d) Demand Notice was not served on the borrowers and sureties.

   e) Possession Notice was not served to the borrowers and sureties.

   f) Possession Notice was not published in the newspaper in vernacular language.

These grounds are disputed by the first respondent bank in its written statement and it was averred that SARFAESI measures including issuance of possession notice were taken, after compliance of the mandatory provisions of the Act.

5. The main ground taken by Learned Counsel for the appellant in this appeal is that the first appellant, viz. M/s Vaishnavi Structures Pvt. Ltd., is a private limited company and the borrower, wherein N. Sreenivasa, Uma and Anitha are its Directors. Availing loan to the tune of Rs.1.00 crore in the year 2015 for doing business as a Term Loan for a period of 15 years is admitted. But, it is submitted that first respondent bank had not deducted the payments made by the appellants. Appellants had also incurred heavy loss in the business. After receiving the demand notice and possession notice, appellants approached the first respondent for a settlement, but, first respondent bank was not willing to regularize the loan account and proceeded to take coercive measures under the SARFAESI Act. He reiterated the submission that possession notice was not properly served on the borrowers and sureties and it was not published in the newspapers and affixed on the secured asset.

6. From the counter filed before the Tribunal, it can be seen that respondent bank produced Annexures I to VIII in support of the measures taken under the SARFAESI Act, which are as under.

   I. Copy of the mortgage deed and letter of extension of mortgage

II. Demand Notice dated 1.4.2019 issued under Section 13(2) of SARFAESI Act.

III. Postal acknowledgment card in support of service of demand notice.

IV. Possession Notice dated 6.6.2019 issued under Section 13(4) of the SARFAESI Act.

V. Postal acknowledgment card for serving Possession Notice.

VI & VII: Paper publication of possession notice in Kannada Newspaper "Samyuktha" and in "The Indian Express" dated 7.6.2019

VIII Loan Account of the appellant.

Thus, it can be seen from the counter affidavit filed along with the above said annexures by the first respondent, the first respondent bank has proved service of demand notice and possession notice to the appellants, its publication in English and vernacular language. It is also seen that even after receipt of demand notice, appellants had not paid any amount towards the loan due.

7. True it is, that first respondent bank had not produced the proof of affixture of possession notice on the secured asset in this case. Possession Notice was dated 6.6.2019 and publication of possession

notice was made in the newspapers on 7.6.2019, i.e., within 7 days as required under Rule 8(2) of SIE Rules, 2002. The impugned possession notice was issued only for taking symbolic possession of the secured asset.

8. Thus, this Tribunal finds that first respondent bank has substantially complied with the service of possession notice by serving the possession notice on the borrowers/guarantors and by publishing the possession notice in English and vernacular language. It is to be borne in mind that the first respondent bank issued possession notice dated 9.12.2019 prior to taking sale measures. It is not known whether possession notice dated 9.12.2019 was challenged. In the said circumstances, this Tribunal is of the view that mere non-production of proof of affixture of possession notice will not affect the SARFAESI measures in this case.

9. As regards MA (SA) 10/2025, admittedly, Learned Presiding Officer passed an order on 13.6.2019 in IA No.1703/2019 in SA No.299/2019. By the said order, Learned Presiding Officer ordered stay of the operation of the possession notice dated 6.6.2019 subject to the condition that petitioner/appellant pay a sum of Rs.10.00 lakhs on or

before 26.6.2019 and another sum of Rs.10 lakhs on or before 12.7.2019 into the loan account with the first respondent bank. It is the case of appellant that conditional order was complied and despite compliance of the conditional order, Authroised Officer of the first respondent bank proceeded to take further measures under the SARFAESI Act. It is submitted that when the interim order passed in IA 1703/2019 was in force, first respondent bank sold the schedule mentioned property on 22.3.2021 by virtue of Sale Notice dated 1.3.2021, in respect of another loan account of the Associate Concern of the appellant viz., M/s Bhavana Farms. The very same property was offered as security for the appellant company, viz., M/s Vaishnavi Structures Pvt. Ltd. for its credit facility also. Therefore, sale of the entire property cannot be permitted. Challenging the sale SA No.116/2022 was filed and the same is pending. So saying, it is claimed that sale is in violation of the stay order passed in IA 1703/2019.

10. Admittedly, SA No.299/2019 was filed only against the possession notice dated 6.6.2019. Prayer in IA 1703/2019 is that “if the bank succeeds in taking possession, appellant would be put to hardship and injury”, therefore, temporary injunction was prayed. Learned Presiding Officer

had also recorded that stay application was filed to stay operation of the possession notice dated 6.6.2019 and restricted the stay order only with regard to the operation of Possession Notice dated 6.6.2019 subject to compliance of conditional order to make certain payments.

11. It is a settled proposition of law that issuance of possession notice under Section 13(4) of the SARFAESI Act, obtaining order under Section 14 of the SARFAESI Act for taking physical possession, issuance of sale notice for conducting of sale and conducting sale are all distinct and separate measures. Each measure can be independently challenged. What was challenged in SA 299/2019 was only Possession Notice dated 6.6.2019.

12. It appears that there had been no order to stay the sale proceedings passed in SA No.299/2019 or in any other SA. In the said circumstances, this Tribunal is of the view that merely because of the conditional order passed in IA 1703/2019, sale proceedings initiated by the authorized officer would amount to committing willful disobedience of the order passed the said IA is not correct. This contention has to be rejected and accordingly the same is rejected. Learned Presiding Officer has also rejected the contention raised on the alleged disobedience of the order

passed in IA 1703/2019 and dismissed IA 1351/2022. This Tribunal finds no reason to interfere with this order, therefore, the order passed in IA 1351/2022 is confirmed.

13. **In the result**, following order is passed.

a) RA(SA) 8/2025 is dismissed by confirming the order of the Learned Presiding Officer, DRT-I, Bangalore dated 10.2.2023 passed in SA No.299/2019.

b) Appeal MA(SA) 10/2025 is dismissed by confirming the order passed by Learned Presiding Officer, DRT-I, Bangalore dated 10.2.2023 in IA 1351/2022 in SA No.299/2019.

15.Parties are directed to bear their own costs.

16. Pending IAs, if any, stand closed.

[Dictated to PS (SN) transcribed by him, corrected, signed and pronounced by me in open court, this 4th June, 2026)

Sd/-

(JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON