

IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 2nd day of June, 2026

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

RA (SA) 2/2017

(arising out of SA 304/2011 on the file of DRT-III, Chennai)

Between

M/s. Periyar Mud Crab Hatchery,
Rep. by its Proprietor,
Mr. Eraniappan,
Mugaiyur Village,
Cheyyur Taluk,
Kancheepuram District

.... Appellant

And

The Authorized Officer,
State Bank of India,
Anaicut Branch,
No. 146-B, Mela Street,
Anaicut, Kancheepuram District.

.... Respondent

Counsel for Appellant:
Counsel for Respondent:

M/s. Ethirajulu. G
M/s. S. Pandurangan

ORDER

Learned Counsel for both sides are present.

2. This appeal is filed against the order passed by the Learned Presiding Officer, DRT-III, Chennai in SA 304/2011 on 27.4.2012.

3. It is the submission of the Learned Counsel for the Appellant that the Appellant filed SA 304/2011 to set aside the sale notice dated 6.9.2011, fixing the sale on 10.10.2011. Along with the Securitization Application, Appellant filed an IA for staying all further proceedings. Since the stay was not granted, the sale proceeded and was concluded on 10.10.2011. Appellant raised several grounds in the Securitization Application touching upon the initiation of measures under the SARFAESI Act. The first ground is that the property offered as security are agricultural land. Agricultural lands are exempt under Section 31(i) of the SARFAESI Act from proceeding under the SARFAESI Act. The Authorised Officer failed to give credit to payments of Rs.15 lakhs, and Rs.5 lakhs made on 26.4.2011 as against a claimed sum of Rs.59,83,431/-. Without following the procedures or the Rule 8(6) of Security Interest (Enforcement) Rules, 2002, the sale was held. That apart, the Authorised Officer failed to fix the upset price in order to fetch maximum price for the property. Without considering these vital issues, the Bank proceeded to issue sale notice and held the sale, violating the mandatory procedures to be followed. Learned Presiding Officer passed an order without any reason, dismissing the Securitization Application. Therefore, this appeal.

4. In reply, Learned Counsel for the Respondent submitted that after the sale was over, Appellant visited the Bank, ascertained the balance amount, after apportioning the sale price by the sale of one of the properties, paid the balance amount and got back the title deed of the remaining properties. He sold the property for which title deed was released to him. It shows that the Appellant had conceded to the sale held and, therefore, there is no merit in the appeal. In support of his submission, he produced a letter dated 17.12.2011, addressed by the Appellant to the Manager of the Bank, with regard to closure of his loan account and receipt of documents.

5. Considered the rival submissions and perused the records.

6. Admittedly, the Appellant raised the issues, as aforesaid, touching upon the merits of the measures initiated under the SARFAESI Act like -

- i) Property is an agricultural land and, therefore, it cannot be proceeded under the SARFAESI Act.
- ii) Non-apportionment of the amounts said to have been paid at Rs. 15.00 lakhs, and Rs.5.00 lakhs on 26.4.2011 against a claim of Rs.59,83,431/-.
- iii) Non-following of Rule 8(6) of the Security Interest (Enforcement) Rules, 2002.
- iv) Failed to fix the upset price in order to fetch maximum price.
- v) Error apparent on the face of the record in issuance of the sale notice dated 6.9.2011.

7. These are material grounds touching upon the merits of the case of the Appellant. It is required to be considered in detail by the Learned Presiding Officer, DRT-III, Chennai. However, Learned Presiding Officer, DRT-III, Chennai passed a cryptic order without considering the issues raised. The order reads as follows:

“Applicant present. No response from the other side of the bank. No counter has been filed. Heard the petitioner. Call after some time.

Both parties present. Bank submitted that the SA is infructuous since the sale is over. Copies given. Filed. Recorded. (vide page No. 61 of the typed set). It is submitted that one item of the properties was sold out and the balance amount of Rs.14,93,376/- on 17.12.2007 and closed the account and released the title deeds of the 2nd item. Now he cannot turn round and say. Hence the application is dismissed. No order as to costs.”

8. This order shows that SA was mainly dismissed on the ground that Appellant paid balance amount of Rs.14,93,376/- on 17.12.2007 and closed the account and thus title deeds of 2nd item are released. Therefore, he cannot turn round and say otherwise. Learned Presiding Officer, DRT-III, Chennai ought to have considered the grounds raised in the Securitization Application and disposed the Securitization Application with his findings and reasoning. That is absolutely missing in the order impugned.

Therefore, this Tribunal is of the view that the order is liable to be set aside and, accordingly set aside. This appeal RA 2/2017 is allowed by setting aside the order passed in SA 304/2011 and SA 304/2011 is remanded back to DRT-III, Chennai for disposal in accordance with law and on the basis of the grounds raised in the Securitization Application, preferably within a period of 3 months from the date of receipt of this order.

9. Pending IAs, if any, stand closed.
10. Parties are directed to bear their own costs.

Sd/-

**(JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON**