IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 7th day of July, 2026

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

RA(SA) 40/2026

(arising out of SA No.467/2024 on the file of DRT-I, Ernakulam)

Between

1. Abu Thahir P.B.
2. Basheer P.V.

Appellants 1 to 2 are at:

Palliparambu, Mundur,
Pudanur, Palakkad 678 592.

3. Shabeer P.M.
   Palliparambu, Mundur,
   Zhakkad, Palakkad 678 592. .....Appellants

And

1. The South Indian Bank Ltd.
   Represented by its Branch Manager,
   Palakkad Main Branch,
   G.B. Road, Palakkad 678 013.

2. The Authorised Officer,
   South Indian Bank Ltd.,
   Regional Office, First Floor,
   D& D Arcade Building,
   Chittur Road, Manappullikkavu,
   Kunnathurmedu P.O.,
   Palakkad 678 013. .....Respondents

Counsel for Appellants : M/s Peer Mohammed Khan Associates
Counsel for Respondents : M/s M.L. Ganesh

ORDER

1. Aggrieved against the order passed by Learned Presiding Officer, DRT-I, Ernakulam dated 13.2.2025 in SA No.467/2024, this appeal is filed by the appellants under Section 18 of the SARFAESI Act.

2. SA 467/2024 was filed to set aside Annexure I to Annexure IV proceedings viz., Possession Notice dated 24.11.2023, Petition in MC No.233/2024 filed under Section 14 of the SARFAESI Act, Order dated 30.5.2024 passed in MC No.233/2024 under Section 14 by the Learned CJM and the Notice issued by Advocate Commissioner dated 11.6.2024, in taking possession of the properties scheduled therein and to restrain the respondent bank from evicting the applicants and the occupants from the properties.

3. The grounds raised in the aforesaid SARFAESI application are as under:

   a) Respondent bank failed to issue proper demand notice, in accordance with the provisions of the SARFAESI Act.

   b) Armed with sky-high powers under the SARFAESI Act, the respondent bank used the power in a most capricious manner and to harass the applicants.

c) Properties cannot be termed as secured assets.

d) Secured assets are not registered with CERSAI, as required under Section 26D of the SARFAESI Act.

e) Respondent bank failed to follow the procedure while proceeding under Section 14 of the SARFAESI Act for obtaining order from the CJM Court.

f) There is no statement in the Annexure II regarding the written objection, if any, submitted and the reply thereon.

g) Affidavit required under Section 14 of the Act was not filed.

h) Respondent bank had not complied with the provisions under Rule 8(1) and 8(2) of Security Interest (Enforcement) Rules, 2002 while issuing possession notice for taking possession and

i) Respondent bank arrived at the amount by adding huge interest, which is against the guidelines of RBI.

4. Learned Presiding Officer, on going through the records and the submissions made by the learned counsel appearing for parties before the Tribunal, dismissed the SARFAESI Application by holding that the respondent bank had taken measures for issuing possession notice and in obtaining the order under Section 14 of the SARFAESI Act, after following

the provisions of the SARFAESI Act and the Rules made thereunder. Aggrieved against this order, this appeal is filed.

5. Learned Counsel for the appellants submitted that in the demand notice dated 31.7.2023 two accounts have been shown i.e., a) CCOL Account for a sum of Rs.2.00 Crores and b) ECLGS for a sum of Rs.61.00 lakhs. It is submitted that the account was classified as NPA on 26.5.2023. Two properties have been shown as secured assets. The amount demanded as due was shown as Rs.2,02,08,382.93 as on 30.7.2023 with further interest. In the possession notice, the amount due was shown as Rs.2,63,23,744.12p in respect of those loan accounts. This is not in accordance with SIE Rules, 2002. It is also submitted that classification of the account as NPA is illegal. The reason is that ECLGS account had been serviced properly, therefore, it should not have been classified as NPA. Same is the case with the classification of CCOL account a NPA. There is also non-registration of the secured assets with CERSAI as required under Section 26D of the Act. These grounds had not been considered by the learned Presiding Officer and the SARFAESI Application was dismissed. Therefore, this Appeal.

6. In reply, learned counsel for the respondent bank submitted that classification of the account as NPA on 26.5.2023 was due to the default committed by the appellants in repaying the loan. The demand notice was

issued on 31.7.2023 and it has all the details of the loan facilities availed, date of classification of the account as NPA, amount due and the details of the secured assets. Thereafter, by complying Rule 8(1) of SIE Rules, possession notice was issued on 24.11.2023 for taking symbolic possession of the secured assets. There is nothing wrong in the Section 13(4) Possession. The possession notice was not challenged. Therefore, it cannot be challenged along with the challenge against Section 14 Order. When symbolic possession notice was not challenged, appellants cannot challenge the order obtained under Section 14 of the SARFAESI Act. Even after receipt of demand and possession notices and obtaining order under Section 14 and even after the dismissal of SA No.467/2024, the appellants had not taken any steps to settle the loan account and redeem the property. It shows that appellants are not interested in settling the loan account but only to protract the proceedings. Secured assets are duly registered with CERSAI. There is a due to the tune of Rs.2.94 crores as on the date of filing of this appeal. Thus, he prayed for dismissal of the appeal.

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

8. The grounds raised in the SA and agitated before this Tribunal have already been extracted. It appears that without raising any ground on the

classification of NPA, submission had been made before the lower Tribunal. No amount of evidence and submission would be looked into without pleading. Learned Presiding Officer, on going through the records and submissions, found that without making a specific plea with regard to classification of account as NPA, that issue cannot be raised. It is also recorded that appellants had not sent any objection/reply to the demand notice. Learned Counsel for the appellants also confirmed that no objection/reply was sent to the demand notice, against classifying the account as NPA. Appellant lost the first opportunity of challenging the classification of account as NPA by sending objection/representation to demand notice. Therefore, that issue cannot be challenged now and it was rightly observed by the learned Presiding Officer in his order.

9. With regard to the order passed under Section 14 of the SARFAESI Act, learned Presiding Officer found that respondent bank had followed the requisite procedure for obtaining order under Section 14 and Section 14 order was passed after perusing the contents of the affidavit and satisfied with the prayer for appointing an Advocate Commissioner to take physical possession of the secured asset. Only bald allegations are made against the Section 14 Order, without pointing out any material defect.

10. Hon'ble Supreme Court of India has consistently held that the power exercised by CMM/DM under Section 14 of the SARFAESI Act, are strictly ministerial and executory and not adjudicatory. In re, **Phoenix ARC Vs. State Bank of Maharashtra reported in 2022 SCC Online Bom 1710,** Hon'ble Supreme Court of India set forth two key considerations that need to be assessed by the DM.

a) Whether the secured asset is within the Territorial Jurisdiction?

b) Whether any notice under Section 13(2) of the SARFAESI Act has been issued?. In addition, CMM/DM will have to ensure that the duly sworn affidavit submitted with the application contains the declarations required by sub-clauses (i) to (ix) of Section 14(1) proviso.

11. It is seen from the records produced before DRT that first respondent had produced all the necessary documents required under Section 14 of the SARFAESI Act and filed sworn affidavit confirming to the compliance of sub-clauses (i) to (ix) of Section 14(1) proviso, and satisfied the Learned CJM for obtaining favourable order under Section 14 of the SARFAESI Act. That has been confirmed by the learned Presiding Officer also. Therefore,

there is nothing wrong factually or legally in the order passed under Section 14 of the SARFAESI Act.

12. This Tribunal also finds that the possession notice issued on 24.11.2023 was challenged along with the order passed under Section 14 on 30.5.2024. The prayer to set aside the possession notice is barred by limitation.

13. Under the circumstances, this Tribunal is of the view that Learned Presiding Officer, DRT-I, Ernakulam has rightly passed a well considered order dismissing the SARFAESI Application and it requires no interference from this Tribunal.

14. **In the result,** order of the Learned Presiding Officer, DRT-I, Ernakulam dated 13.2.2025 passed in SA No.467/2024 is confirmed and this Appeal, RA(SA) 40/2026 is dismissed.

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 7th July, 2026)

Sd/-
(JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON