IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 17th day of July, 2026

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

RA 67/2015
**(arising out of OA 207/2007 on the file of DRT-II, Chennai,
old OA No.5/2007 on the file of DRT-I, Chennai)**

Between

1. B. Srinivasan
   S/o Badrinarayanan,

2. Mrs. Gowri Srinivasan,
   W/o B. Srinivasan

Both residing at:

No.239, 2nd South Cross Street,
Kapaleeswarar Nagar, Neelangarai,
Chennai 600 041.

.....Appellants

And

Bank of Baroda*
(formerly Vijaya Bank)
Represented by its Branch Manager,
No.77, First Main Road,
Gandhi Nagar, Adyar,
Chennai 600 020.

*(amended as per the order dated 11.12.2019 made
In IA No.1044/2019)

.....Respondent Bank

Counsel for Appellants	:	K.V. Subramanian Associatez
Counsel for Respondent Bank	:	M/s R. Umasuthan & K. Bhaskar

ORDER

1. This appeal is filed against the order of the Ld. Presiding Officer, DRT-II, Chennai in OA No.207/2007 (old No.5/2007 on the file of DRT-I, Chennai) dated 28.6.2013, under Section 20 of the RDB Act.

2. The respondent bank filed the aforesaid OA for recovery of a sum of Rs,13,24,826.99p with future interest at 15% p.a. with monthly rests from 27.12.2006 till the date of realization with costs.

3. The case of the respondent bank was that on 10.12.2004, the appellants approached the bank for a housing loan of Rs.10.00 lakhs. First appellant is the borrower and the second appellant is the co-borrower. Loan application dated 10.12.2004 was considered by the respondent bank and a loan amount of Rs.10.00 lakhs was released to the appellants vide sanction letter dated 14.12.2004. In consideration of the loan sanctioned, appellants executed on 14.12.2004 the following documents.

(a) Articles of agreement

(b) Letter of Undertaking

(c) Demand Promissory Note for Rs.10.00 lakhs.

3.1 They also created equitable mortgage by deposit of original title deeds on 14.12.2004. After availing the loan, appellants failed to repay the loan, therefore, aforesaid claim application was filed.

4. This claim was resisted by the appellants among other grounds including the grounds that,

a) One Asst. Manager, Mr. Suresh had duped the appellants in entering into the loan agreement by asking them to sign in blank papers.

b) The sale deed said to have been produced for creation of equitable mortgage is a forged sale deed.

c) Appellants have no role in the creation of forged sale deed.

d) No valid mortgage was created on the basis of the forged sale deed.

e) Loan amount was never disbursed to the appellants, but, it was disbursed to the builder without getting proper consent from the appellants.

5. On consideration of the oral and documentary evidence, Ld. Presiding Officer allowed OA No.207/2007 on 28.6.2013 by passing a personal decree against them and against the said order, this appeal is filed.

6. Ld. Counsel for the appellants submitted that appellants are said to be the borrowers, but, they were duped by the Mr. Suresh, Asst. Manager of the

Bank and he was responsible for the appellants to give the loan application and for getting their signatures in the blank documents. Appellants were neither disbursed the loan amount nor flat was delivered to them.

6.1 Stamp papers for the sale deed bears the date as 8.12.2004 and said to have been registered on 9.12.2004. Verification of records, especially records of Asst. Treasury office shows that stamp papers were purchased much later on 16.5.2005 for the alleged sale deed. It is submitted that, it is not possible for the appellants to produce the original sale deed for creation of equitable mortgage. Sale Deed bearing No.7397/2004 relates to some other sale deed. It clearly proves fabrication and forgery of sale deed by the bank official and the builder. In fact, PW1 admitted that Ex.A6 is a fraudulent document. The allegation that Mr. Suresh, Asst. Manager committed fraud was not denied by the bank.

6.2 Bank has issued demand notice under Section 13(2) of the SARFAESI Act on 19.12.2005 and objection was sent to this notice. But no reply was sent by the bank. There is contradiction with regard to Flat Number for which sale deed was executed, as to whether Flat A1 in the first floor or a flat in the third floor. On the basis of the sanction letter, the amount should have been disbursed. RBI Master Circular gives guidelines to the mode of disbursement of the loan account. Stamped receipt should be obtained from the borrowers before release of the loan amount. No loan amount should be disbursed prior to deposit of title deeds.

6.3 In support of his submission, he produced decision rendered by Hon'ble Supreme Court of India, in re, **S.P Chengalvaraya Naidu vs Jagannath reported in 1994 AIR SC 853** for the proposition that litigant should produce all the documents executed by him, which are relevant to the litigation. Thus, Ld. Counsel for appellants submits that bank has miserably failed to show that appellants had properly executed loan documents, created mortgage on their property. On the other hand appellants proved that they are the victims of fraud committed by Mr. Suresh, Asst. Manager of the bank and the builder and forged sale deeds and documents were created by them Thus, he prays for setting aside the order of Ld. Presiding Officer and allow this appeal.

7. In reply, Ld. Counsel for the respondent bank submitted that in fact appellants are the employees of the builder for the purpose of registration of sale deeds. First appellant is a document writer and also a stamp vendor. They approached the bank for the loan of Rs.10.00 lakhs by submitting an application on 10.12.2004. First appellant was the applicant and the second applicant was the co-applicant. In the loan sanction

proceedings dated 14.12.2004, it was specifically stated that a sum of Rs.10.00 lakh was sanctioned towards housing loan and the mode of disbursement of loan was "**payments to the builder**". Appellants have to make payment in 240 EMIs of Rs.9000/- per month. Appellants had also executed other loan documents.

7.1 It is seen from the accounts statement produced, loan amount was not directly transferred to the builder, but it was transferred to the appellant, B. Srinivasan's account and he, in turn, transferred this amount to the builder. Every allegation raised by the Ld. Counsel for the appellants was extensively considered by the Learned Presiding Officer in his well considered order and all the allegations were found to be false. Ld. Presiding Officer rightly found that appellants are responsible to repay the amount on the basis of the borrowal and allowed the claim, holding that appellants are jointly and severally liable to pay the loan amount. Merely because one bank official had committed some fraud, respondent bank cannot be deprived of the money lent to the appellants. In fact, appellants produced a forged sale deed for creation of mortgage.

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

9. From the case set out by the parties and recorded above, appellants' claim is that they were duped by the Asst. Manager of the respondent bank, Mr. Suresh in luring them to sign in blank loan documents. Appellants neither received the loan amount nor the flat was delivered to them. The Bank Manager, in connivance with the builder created all the loan documents, sale deed and cheated the bank as well as the appellants. The opposite case of the bank is that appellants submitted loan application, executed loan documents, availed loan amount for purchase of a flat. Loan amount was transferred to the builder by the 1st appellant. Appellants and the builder have cheated the bank. First appellant and the builder have prior acquaintance and in one of the sales effected by the builder, appellant prepared the sale deed. It shows the nexus between them and the conspiracy in cheating the bank by producing fake sale deed. Thus, it is necessitated to consider who cheated whom?

10. Perusal of the documents filed in the typed set of papers shows that first appellant as applicant and the second appellant as co-applicant submitted the loan application on 10.12.2004 for availing loan of Rs.10.00 lakhs for the purpose of financing the housing loan. The name of the vendor/developer was MAM Associates. In the sanction proceedings

dated 14.12.2004, it was mentioned that loan amount sanctioned was Rs.10.00 lakhs and the name of the account was '**Mortgage Housing Loan'**. Security was ' land and flat situated in the 3rd Floor, Cornerstone, No.74, Panchayat Road, Perungudi Chennai 600 096'. Mode of disbursement of loan was **'Payment to the Builder'**. Loan amount had to be paid in 240 equated monthly instalments of Rs.9,000/- per month. Both appellants have executed promissory note for Rs.10.00 lakhs on 14.12.2004. They have also executed Article of Agreement on the same day. A letter dated 14.12.2004 was also executed giving an undertaking to pay the monthly instalments of Rs.9000/- per month for 240 months. Apart from that, a letter confirming deposit of document of title relating to the property described in the 'A' schedule was also executed. Important among them is the original sale deed dated 9.12.2004.

11. Appellants claim that in the sale agreement dated 8.12.2004 executed between the builder, Mr. Joseph Issac and the appellants, it was agreed to sell 725 sq.ft of undivided share of land for construction of a flat of 1450 sq.ft for a consideration of Rs.16.00 lakhs in the first floor bearing Flat No.A1. It is further submitted that in the loan sanction proceedings, it was referred as flat situated in the 3rd floor. This contradiction is

projected to say that the bank manager and the builder had colluded and created the document.

11.1 On the other hand, it is the case of the respondent bank that respondent is not a party to this sale agreement. Neither the sale agreement nor the construction agreement entered into with the builder was produced by the appellants at the time of creation of equitable mortgage by deposit of title document. Sale Agreement dated 8.12.2004 and the Sale Deed dated 9.12.2004 are forged documents created by the appellants, with the help of the builder. Therefore, bank was not able to proceed under the SARFAESI Act and filed OA under RDB Act. Learned Presiding Officer on finding that there is no valid security created, ordered only a personal decree against the appellants. In support of his submission, he referred to the sale deed dated 9.12.2004 executed by Mr. Joseph Issac in favour of the appellants and the sale deed dated 31.12.2004 executed by Mr. J. Subramaniam and Mrs. Subramaniam in favour of G. Selvaraj to point out that Document No.7397/2004 for the sale deed dated 31.12.2004 was used by the appellants and Mr. Joseph Issac for creation of a forged and fabricated sale deed dated 9.12.2004. He also brought to my notice the sale deed dated 22.4.2005 executed by Mr. Joseph Issac in favour of Mr. N.

Rajkumar to prove that the first appellant was the one, who drafted this sale deed and it confirms the unholy nexus between Mr. Joseph Issac and the first appellant in colluding, conspiring and cheating the bank of its public money.

12. It is not in dispute that the original sale deed dated 9.12.2004 executed by Mr. Joseph Issac in favour of the appellants is a forged sale deed. Appellants and the respondent bank concede to this fact. This Tribunal queried the Learned counsel for the appellants, as to whether appellants had given any criminal compliant against the Asst. Manager of the respondent bank, Mr. Suresh and the builder, when it is claimed that they cheated the appellants by inducing them to sign in blank papers, forged sale deed for availing the loan and then cheated them by not paying the loan amount or giving the flat, he answered in negative. First appellant is not an uneducated person. He is a document writer and his wife, as per the loan application is a B.Com Graduate. Appellants have not disputed their signatures in the loan documents. Therefore, the very claim of the appellants that they signed in blank loan documents is hard to believe and cannot be entertained. The fact that they had not given any criminal complaint against the Asst. Manager, Mr. Suresh and the builder shows that their claim that they signed in blank loan documents is nothing but an

utter falsehood. On the other hand, when there is a document, i.e., sale deed dated 22.4.2005 prepared by the appellants, there is a certain possibility that the appellants in collusion with the builder Mr. Joseph Issac had connived and conspired in cheating the bank of its pubic money by fabricating forged sale deed.

13. Accounts statement produced in this case shows that loan amount was transferred to the account of the first appellant Mr. B. Srinivasan and from this account Rs.8.00 lakhs was transferred to MAM Associates, followed by transfer of Rs.1.00 lakh and Rs.50,000/- each, on two occasions. Therefore, the case of the appellants that loan was not disbursed to them is untenable.

14. Respondent bank has produced necessary documents before the lower Tribunal for getting a favourable order. Copies of those documents are also produced before this Tribunal. The fact that sale deed dated 9.12.2004 is a forged document is proved by production of encumbrance certificate wherein this sale is not entered. Therefore, the decision of the Hon'ble Supreme Court of India, relied by the appellant in re, **S.P Chengalvaraya Naidu vs Jagannath reported in 1994 AIR SC 853** is not useful to the case of the appellants. If the builder has not delivered the

flat, appellants should have prosecuted the builder both under Civil and Criminal law and that was not done in this case.

15. From a consideration of the records produced and the submissions made by learned counsel appearing for parties, this Tribunal finds that the respondent bank has made out a case for getting a personal decree against the appellants for the loan of Rs.10.00 lakhs availed for housing and that no ground is made out for interfering with the order of the learned Presiding Officer, DRT-II, Chennai. Therefore, the order of the Learned Presiding Officer, DRT-II, Chennai dated 28.6.2013 passed in OA 207/2007 is confirmed and this appeal is dismissed.

16. **In fine**, the Order of the Learned Presiding Officer, DRT-II, Chennai dated 28.6.2013 passed in OA 207/2007 is confirmed and this Appeal RA 67/2015 is dismissed, with the costs of the respondent bank.

17. Pending IAs, if any, stand closed.

[Dictated to PS (SN) transcribed by him, corrected, signed and pronounced by me in open court, this 17th July, 2026)

Sd/-
(JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON