IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 24th day of July, 2026

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

RA (SA) 16 of 2026

(arising out of SA No. 247 of 2025 on the file of DRT-I, Karnataka at Bengaluru)

Between

The Authorized Officer,
Aditya Birla Housing Finance Limited,
3rd Floor, NO. 78, Star Avenue,
6th Cross Road, Victoria Layout,
Bengaluru, Karnataka – 560 047

….. Appellant

And

Preethi R Rai,
Flat No. 1004, Ground Floor,
Anriya Palatial Apartments,
No.2/4, Lottegollahalli Village, 1st Main,
BBMP Ward No.100, R.M.V. 2nd Stage,
6th Cross Road, Bengaluru, Karnataka – 560 094

….. Respondent

Counsel for Appellant:	M/s. T.K.M. Sai Krishnan
Counsel for Respondent:	M/s. M. Mohamed Ibrahim

ORDER

This appeal is filed against final order passed in SA 247 of 2025 by the Learned Presiding Officer, DRT-I, Karnataka at Bengaluru on 21.11.2025.

2. It is submitted by Learned Counsel for Appellant that SA 247 of 2025 has been filed to set aside the possession notice dated 23.4.2025 issued under Section 13(4) of the SARFAESI Act, 2002. The Learned Presiding Officer, DRT-I, Karnataka at Bengaluru observed that Section 13(2) demand notice was not served on the Respondent and, therefore, all subsequent measures under Section 13(4) stood vitiated. It was also observed that Respondent alleged that the possession notice dated 23.4.2025 was not affixed and not published in the newspaper, in accordance with Rules 8(1) and 8(2) of the Security Interest (Enforcement) Rules, 2002. On these reasons, more specifically for the reason that the service of demand notice dated 14.2.2025 was not served and therefore there was no question of examining the validity of the possession notice dated 23.4.2025, allowed the Securitization Application.

3. Continuing his submission, it is submitted by the Learned Counsel for Appellant that in para 2 of the order, it is recorded that the Respondent sent a representation against the demand notice dated 14.2.2025. It is also evident from the Securitization Application filed by the Respondent that Respondent sent a reply dated 9.4.2025

under Section 13 (3A) of the SARFAESI Act, 2002 to the demand notice. Therefore, it is clearly established that the demand notice was served on the Respondent. Without considering this fact, the Learned Presiding Officer, DRT-I, Karnataka at Bengaluru observed that demand notice was not served and, therefore, there was no need to consider the subsequent measures taken under Section 13(4) of the SARFAESI Act, 2002, especially the notice issued under Section 13(4) of the SARFAESI Act, 2002, and allowed the Securitization Application. In the said background, this appeal is filed.

4. It is further submitted that there is a huge amount of Rs. 3,71,64,900.53p due as per the demand notice issued. No amount has been paid by the Respondent so far. By allowing the Securitization Application, the Bank has lost its right to proceed further.

5. Elaborating his submissions, Learned Counsel for the Appellant submitted that the demand notice dated 14.2.2025 was sent to the Respondent Ms. Preeti R. Rai, principal borrower, her husband Mr. Rai. R.K., co-borrower, and M/s. Dash Industries, claiming the due amount of Rs.3,71,64,900.53p in respect of four loans availed by them. The demand notice was sent through speed post on 17.2.2025. Notice sent to Ms. Preeti R Rai was returned as ‘unclaimed’ on 28.2.2025, and it was received back by the Appellant on 3.3.2025. Similarly, notice sent to Mr. Rai. R.K. was returned as ‘unclaimed’ on

28.2.2025 and delivered back to the Appellant on 4.3.2025. Apart from sending the notice through speed post, Mr. Rai. R.K. was served with the demand notice personally on 19.2.2025. The demand notice was published in English and Kannada news daily on 19.2.2025. In support of his submission, Appellant brought to my notice a copy of the demand notice, postal receipt copies, tracking consignment report, photograph showing service of notice to Mr. Rai. R.K. in person, and publication in Kannada and English newspapers. Proof of affixture of demand notice is also filed in a separate sheet. Thus, he submitted that the demand notice was properly served in person, published, and affixed, and the notice taken through speed post was deliberately returned as ‘unclaimed’.

6. Followed by service of demand notice, the Appellant issued a possession notice dated 23.4.2025 through speed post. The possession notice had also been returned as ‘no such person/insufficient address’. The possession notice was affixed, and published in English and vernacular language newspapers. In support of his submission, Learned Counsel for Appellant brought to my attention copies of postal receipts, tracking consignment report, affixture, and paper publications of possession notice. It is submitted that despite establishing proper service and/or attempt to service of demand notice, the Learned Presiding Officer, DRT-I, Karnataka at Bengaluru gave a wrong finding that demand notice was not served

and, therefore, all subsequent measures taken under Section 13(4) stands vitiated. He prays for setting aside the order of the Learned Presiding Officer, DRT-I, Karnataka at Bengaluru.

7. In reply, Learned Counsel for the Respondent submitted that the demand notice dated 14.2.2025 was posted on 17.2.2025, and it was returned to the sender only on 4.3.2025. Even before the return of the demand notice, the Appellant effected publication of the demand notice on 19.2.2025. It raises doubt as to how come the Appellant knew about the return of the demand notice in advance. On seeing the demand notice in the paper publication, Respondent sent an objection to the demand notice under Section 13 (3A) to the corporate address of the Appellant Financial Institution on 9.4.2025. It was received by the corporate office of the Appellant Financial Institution on 13.4.2025. After receiving the objection to the demand notice, it was not replied. Sending a reply to the objections filed under Section 13 (3A) is mandatory. When a reply is not sent, the SARFAESI measures have to necessarily fail. Demand notice was not properly served, and affixed. Thus, he prays for sustaining the order of the Learned Presiding Officer, DRT-I, Karnataka at Bengaluru.

8. In reply to the above submissions, Learned Counsel for the Appellant submitted that in the demand notice, it is specifically stated that the addressee may contact the Authorized Officer of the Appellant at Aditya Birla Housing Finance Limited, G-Corp Tech Park, 8th Floor,

Ghodbunder Road, Next to Hyper City Mall, Thane (W) – 400 607. However, the objection to the demand notice was not sent to this address but to the corporate office address. That objection has not been received by the Authorized Officer. That was the reason as to why the objection was not replied.

9. Considered the rival submissions and perused the records.

10. From the submissions of the Learned Counsel appearing for the Parties, especially the submissions made by the Learned Counsel for the Appellant in respect of proper service and/or attempt to service of demand notice, and possession notice, it is clear that the Learned Presiding Officer, DRT-I, Karnataka at Bengaluru gave a wrong finding that the demand notice was not served, resultantly set aside the subsequent measures taken under Section 13(4) of the SARFAESI Act, 2002.

11. The DRT's order is supported by the Learned Counsel for Respondent on the grounds that there is -

(i) no effective service of demand notice, and possession notice;

(ii) Some of the returned covers shows that the address given is insufficient; and,

(iii) There was no reply sent to the objection sent as per Section 13(3A) of the SARFAESI Act, 2002.

On perusal of records, this Tribunal finds that in the impugned demand notice dated 14.2.2025, it is stated as follows:

> "*You may contact authorized officer of Aditya Birla Housing Finance Limited at Aditya Birla Housing Finance Limited, G-Corp Tech Park, 8th Floor, Ghodbunder Road, Next to Hyper City Mall, Thane (W) – 400 607 or connect with the concerned RCM, Mr. Ganesh Nayak on 9164844283 or on e-mail id abhfl.authorisedofficer@adiyabirlacapital.com* for any clarification and / or compliance of this notice at your end."

12. Thus, it is made clear in the demand notice that the addressees are required to contact the Authorized Officer of the Aditya Birla Housing Finance Ltd., at Aditya Birla Housing Finance Limited, G-Corp Tech Park, 8th Floor, Ghodbunder Road, Next to Hyper City Mall, Thane (W) – 400 607. Though the address of the corporate office and registered office are appearing in the demand notice, it does not mean that the Respondent can send the objection to the corporate office address. The objection ought to have been sent to the Authorized Officer in the address specifically mentioned in the demand notice. When that was not done, the submission of the Learned Counsel for the Respondent that the SARFAESI measures bound to fail for not replying to the objection sent under Section 13(3A) of the SARFAESI Act, 2002 cannot be sustained.

13. As regards service of demand notice, the tracking consignment record shows that Respondent and her husband have not chosen to receive the demand notice when it was sought to be served. They

returned it without claiming the demand notice and then it reached back the Appellant. Rule 3 of the Security Interest (Enforcement) Rules, 2002 deals with the demand notice. It reads as follows:

> Rule 3:
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> "*The service of demand notice as referred to in sub-section (2) of section 13 of the Act shall be made by delivering [including hand delivery] or transmitting at the place where the borrower or his agent, empowered to accept the notice or documents on behalf of the borrower, actually and voluntarily resides or carries on business or personally works for gain, by registered post with acknowledgment due, addressed to the borrower or his agent empowered to accept the service or by Speed Post or by courier or by any other means of transmission of documents like fax message or electronic mail service:*
>
> *Provided that where authorized officer has reason to believe that the borrower or his agent is avoiding the service of the notice or that for any other reason, the service cannot be made as aforesaid, the service shall be effected by affixing a copy of the demand notice on the outer door or some other conspicuous part of the house or building in which the borrower or his agent ordinarily resides or carries on business or personally works for gain and also by publishing the contents of the demand notice in two leading newspapers, one in vernacular language, having sufficient circulation in that locality.*
>
> *(2) Where the borrower is a body corporate, the demand notice shall be served on the registered office or any of the branches of such body corporate as specified under sub-rule (1).*
>
> *(3) Any other notice in writing to be served on the borrower or his agent by authorized officer, shall be served in the same manner as provided in this rule.*
>
> *(4) Where there are more than one borrower, the demand notice shall be served on each borrower.*

14. As per this rule, the secured creditor is bound to take steps for serving the demand notice by delivering, including hand delivery, or transmitting at the place where the borrower or his agent, empowered to accept the notice or documents on behalf of the borrower, actually and voluntarily resides or carries on business or personally works for gain, by registered post with acknowledgment due. This requirement of sending the demand notice through Registered post was done in this case. That was not received by the Respondent. If the Authorized Officer has reason to believe that the borrower or his agent is avoiding the service of the notice or that for any other reason, the service cannot be made, then the service can be made by affixing a copy of the demand notice on the outer door or some other conspicuous part of the house or building in which the borrower or his agent ordinarily resides or carries on business. In compliance of this part of the rule, affixture of the demand notice was done, besides effecting publication of the demand notice on 19.2.2025. Apart from this, the Appellant has also produced a photograph showing the effort made to serve the demand notice in person to Mr. Rai. R.K. on 19.2.2025. It is the case of the Appellant that only after receiving the demand notice served personally, the Respondent sent the objection. This submission seems true because the identity of Mr. Rai. R.K. is not disputed by the Respondent. This photograph shows that service of demand notice was effected on 19.2.2025.

15. On the submission of the Learned Counsel for Respondent that how come the publication and affixture can be made on 19.2.2025, when the demand notice sent through post was returned to the Appellant only on 4.3.2025, this Tribunal is of the view that what is required is the service of demand notice. That was attempted by sending the demand notice through registered post. However, that was returned 'unclaimed'. Personal service of demand notice was effected on 19.2.2025, and on the same day, publication and affixture of the demand notice was also done. When there is sufficient material to show that a valid and legal attempt was made to serve the demand notice through post and, in fact, service of demand notice in person to the husband of the Respondent is proved, this Tribunal is of the view that the Appellant has sufficiently complied with the service of demand notice. No prejudice whatsoever is brought out by the Respondent.

16. As already stated, this Tribunal finds from the records produced that possession notice was attempted to be served through registered post but those were returned for insufficient address. Possession notice was published in English and vernacular language newspapers and then affixed on the secured asset. The Banks / Financial Institutions are required to take notice to the address given in the loan documents. That was done in this case. If there is a change of address, it is the bounden duty of the Respondent to inform the Bank / Financial Institution to take note of the change of address. Therefore,

return of the covers of the possession notice for the reason 'insufficient address' is not a ground to suspect service of possession notice.

17. On consideration of the documents and submissions made by the Learned Counsel for the Parties, this Tribunal finds that despite proper service of the demand notice and possession notice, the Learned Presiding Officer, DRT-I, Karnataka at Bengaluru, without considering the materials placed before the DRT, wrongly allowed this securitization application, and that order has to be necessarily set aside, and accordingly set aside.

18. Thus, SA No.247 of 2025 is dismissed. Consequently, appeal RA (SA) 16 of 2026 is allowed.

19. The Appellant Financial Institution is empowered to proceed further in accordance with law.

20. Parties are directed to bear their own costs.

21. Pending IAs, if any, stand closed.

[Dictated to Stenographer (NN) in open court, transcribed by him, corrected, and signed by me, this 24th day of July, 2026]

Sd/-
(JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON