IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 19th of August, 2026

PRESENT: Hon'ble Mr. *Justice* G. Chandrasekharan
CHAIRPERSON

RA (SA) 66/2025
(SA (NDN) No.1287/2024 on the file of DRT, Coimbatore)

Between

Mr.S.Velmurugan
S/o Mr.Sermapandi
Door No: 277, Chetti Veethi,
Perur Main Road
Coimbatore-641 001
Mobile No: 9842459288

Appellant

And

1. Tamilnadu Mercantile Bank Ltd.
Rep. by its Authorised officer/Manager
Kumarapalayam Pudhur Branch
Door No.144, Perur Main Road
Selvapuram, Coimbatore 641 026

2. M/s. Sun Trading & Co,
Door No: 35, Sathya Nagar, I.U.D.P.Colony
Selvapuram, Coimbatore -641026
Mobile No:9894118211

3. Mrs.N.Jaya Chitra
Wo Late.Mr.Nattar Raman
Door No: 35, Sathya Nagar, I.U.D.P.Colony
Selvapuram, Coimbatore -641026
Mobile No: 8903450636

4. Mrs. Chellathal
W/o Mr.Sakthivel Nadar
Door No:2/94, Amman kovil Street,
Amman kovil backside,
Vaalavallan, Kelur-628 801
Mobile No: 8903450636

5. Mrs. N.Jaya Chitra
On behalf of Minor.Yohana:
Door No: 35, Sathya Nagar, I.U.D.P.Colony
Selvapuram, Coimbatore - 641026
Mobile No: 8903450636

6. Mrs.N.Jaya Chitra
On behalf of Minor.Navya
Door No: 35, Sathya Nagar, I.U.D.P.Colony,
Selvapuram, Coimbatore -641026
Mobile No: 8903450636

7. Mrs.N.Jaya Chitra
On behalf of Minor.Sai Harivel
Door No: 35, Sathya Nagar, I.U.D.P.Colony,
Selvapuram, Coimbatore -641026
Mobile No: 8903450636

8. P. Kannagaraj,
S/o.PalaniSamy,
No.1/133, Sangothipalayam,
Kaniyur, Sulur Taluk,
Coimbatore-641 659

...Respondents

Counsel for Appellants : *M/s. D. R. Arun Kumar and R. Kannan*
Counsel for Respondent No.1 : *M/s. V. Chandrasekaran and S. Vignesh*

ORDER

1. Aggrieved by the order passed in SA (NDN) No.1287/2024 by the Learned Presiding Officer, DRT, Coimbatore (In-charge), this Appeal is filed.

2. Appellant filed the aforesaid SA to declare the CJM order dated 16.05.2024 and sale notice dated 08.02.2023 as illegal, arbitrary and unsustainable under law and for other reliefs. It is the submission of Learned Counsel for the Appellant that the Securitisation Application was dismissed mainly on the ground of delay i.e. the delay of six days in filing the Securitisation Application. It is further submitted by the Learned Counsel for the Appellant that the Securitisation Application has been filed within 45 days from the date of knowledge of the order passed. The Advocate Commissioner notice was served on the Appellant only on 05.07.2024. Therefore, the Securitisation Application was filed on 06.07.2024, is within the period of limitation.

3. In reply, Learned Counsel for 1st Respondent submitted that it is claimed by the Appellant in IA 2279/2024 that the Advocate Commissioner came to the property and affixed the notice on 05.07.2024 and then only the Appellant came to know the order passed by the Learned CJM. There is no evidence produced in support of this claim. The date of the order has to be taken as starting point for computing the period of limitation.

4. Considered the rival submissions and perused the records.

5. It is not in dispute that the order under Section 14 of the SARFAESI Act, 2002 was passed on 16.05.2024. With regard to starting point of limitation/cause of action for challenging the order passed under Section 14 of the SARFAESI Act, 2002, under Section 17 of the SARFAESI Act, 2002, Hon'ble Supreme Court of India in **Standard Chartered Bank Vs. V. Noble Kumar and Others,** reported in *(2013) 9*

SCC 620, held that an Appeal under Section 17 is available to the borrower only after losing possession of the secured asset. The relevant portion is extracted hereunder:

> *"It can be noticed from the language of the proviso to Section 13(3-A) and the language of Section 17 that an "appeal" under Section 17 is available to the borrower only after losing possession of the secured asset. The employment of the words "aggrieved by …… taken by the secured creditor" (emphasis supplied) in Section 17(1) clearly indicates the appeal under Section 17 is available to the borrower only after losing possession of the property. To set at naught any doubt regarding the interpretation of Section 17, the proviso 20 to sub-section (3-A) of Section 13 makes it explicitly clear that either the reasons indicated for rejection of the objections of the borrower or the likely action of the secured creditor shall not confer any right under Section 17."*

From this dictum, it is clear that, the right to file an Appeal under Section 17 of the SARFAESI Act, 2002, is available only after losing possession of the secured asset by the borrower. Appellant in this case is a guarantor. The guarantor is as good as borrower. Therefore, the right to challenge the order under Section 14 of the SARFAESI Act, 2002, arises from the date of losing possession of the property. It is the submission of the Learned Counsel for the Appellant that physical possession was taken from the Appellant on 11.07.2024. However, the SA was filed even prior to losing the physical possession. Therefore, this Tribunal is of the view that the dismissal of the SA on the ground of limitation cannot be sustaining and that decision has to be set aside and accordingly set aside.

6. The DRT, Coimbatore is directed to number the Securitisaton Application and dispose of the same on merits and in accordance with law adverting to the grounds raised and counter to be filed by the Respondent, as expeditiously as possible.

7. Accordingly, the Appeal in RA (SA) 66/2025 is disposed of. Both parties shall bear their own costs. All pending IAs, if any, stand closed.

[Dictated to Athistamani, PS, transcribed by her, corrected and signed by me this 19th of August 2026]

[*Justice* G. Chandrasekharan]
CHAIRPERSON