IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated: the 6th day of August, 2026

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

RA (SA) 100/2025
(Arising out SA No.738/2024 on the file of DRT-III, Chennai)

Between

Saraswat Co-operative Bank Ltd.,
Formerly known as M/s. New India Co-operative Bank Limited)
Rep. by its Senior Manager,
Appa Saheb Marathe Road, Prabhadevi,
Mumbai 400 025.

… Appellant

And

1. Mr. G. Rathinavelu,
   S/o late Guruswamy,
   No. 1-C, Rahul Apartment,
   No.24, Cenotaph Road,
   Teynampet, Chennai 600 018.

2. Mr. G. Sundaravadivelu,
   S/o Late Guruswamy,
   No.39 Sundareswaran Koil Street,
   Mylapore, Chennai 600 004.

3. Mr. Kanchanvelu,
   S/o Rathinavelu,
   No. 1-C, Rahul Apartment,
   No.24, Cenotaph Road,
   Teynampet, Chennai 600 018.

4. Mrs. Mangayarkarasi,
   W/o Krishnan,
   No.18, Kasthuri Mansion,
   Dr. P.V. Cherian, Cresent Road,
   Behind Ethiraj Colleges,
   Egmore, Chennai 600 008. …Respondent

Counsel for Appellant : M/s. Madhupreetha Elango

Counsel for Respondents : M/s. Vindhya Vasini

ORDER

This appeal is filed against the final order passed by the learned Presiding Officer, DRT-III, Chennai on 13.03.2025 in SA 738/2024.

2. SA 738/2024 has been filed to defer the measures taken under Section 14 of the SARFAESI Act before the Chief Metropolitan Magistrate, Egmore, Chennai to take physical possession of the schedule mentioned property in Crl.M.P.No.37728/2023, which was ordered on 30.11.2023, as null and void and for further consequential reliefs.

3. This securitization application came to be allowed on 13.03.2025 primarily on the ground that the respondent before the Tribunal, the appellant herein, has not filed counter along with the

typed set of documents countering the case of the appellant. Thus, the learned Presiding Officer proceeded to allow the securitization application on the ground that the contention raised in the securitization application has not been countered. Thus, this appeal is filed.

4. It is the submission of the learned counsel for the appellant that securitization application has been filed beyond the period of limitation from the date of passing the order by the learned Chief Metropolitan Magistrate, Egmore, Chennai. Out of four properties shown in the schedule to application filed under Section 14 of the SARFAESI Act, the physical passion of item No.3 had been taken on 24.10.2021. That apart, even if the counter is not filed, the learned Presiding Officer has to satisfy that the grounds raised in the SARFAESI application are sustainable and the securitization application needs to be allowed. There is no independent consideration of any of the ground taken in the SARFAESI application and the securitization application was allowed mainly on the ground that counter affidavit was not filed. It is impermissible under law. Even the ex-parte order is to be supported by the reasons. On these grounds, learned counsel the

appellant prays for setting aside the order of the learned Presiding Officer and allowing this appeal.

5. Learned counsel for the respondents submitted that the payments made by the respondents towards loan account have not been considered. Challenging the order passed under Section 14 of the SARFAESI Act, several grounds have been raised in the securitization application. Despite giving sufficient opportunities for the appellant to file a counter and produce supporting documents, appellant has not done that and therefore, the learned Presiding Officer, rightly allowed the securitization application.

6. Considered the rival submissions and perused the records.

7. Securitization application has been filed against the order passed in Section 14 application raising several grounds. Some of the important grounds are,

(i) Appellant is misusing the powers vested with it for invoking the Section 14 of the SARFAESI Act for getting orders on 30.11.2023.

(ii) Before expiry of the loan period and terminating the loan agreement, notice under Section 13

(2) of the SARFAESI ACT was issued without giving proper credit towards the loan account.

(iii) Demand notice and possession notices were not properly served. Thus, Rule 8 (1) of the Security Interest (Enforcement) Rules is violated.

(iv) Failed to effect publication of possession notice in two leading news papers one in English and another in vernacular language having vide circulation in the locality.

(v) Failed to affix possession notice on the conspicuous part of secured asset.

(vi) The order passed under Section 14 of the SARFAESI Act on 30.11.2023 came to know to the respondents only on 14.01.2024 and the order passed under Section 14 of the SARFAESI Act is arbitrary and impermissible in law, and

(vii) No statement of account is produced.

On these grounds, securitization application has been filed.

8. As already stated, securitization application has been allowed primarily on the ground that despite giving sufficient opportunities, appellant has not filed the counter to the securitization application opposing the contention raised in the securitization application. The reading of the impugned order shows that the grounds raised by the applicants before the Tribunal has not been independently assessed and considered.

Allowing of the securitization application for not filing the counter and without considering the grounds is not permissible under law.

9. On a query, it is informed by the learned counsel for the respondents that respondents have not sent any objection to the demand notice issued under Section 13 (2) of the SARFAESI Act. The objection under Section 13 (3)(A) is the first opportunity to the borrower/guarantor to explain his case on the demand made in the notice issued under Section 13 (2) of the SARFAESI Act. That objection is conspicuously absent in this case. At the risk of repetition, it is reiterated that any decision should be supported by reasons even if it is an ex-parte decision.

10. In view of non- consideration of the grounds raised and allowing the securitization application without considering all the grounds raised in the securitization application , this Tribunal is of the view that the impugned order passed by the learned Presiding Officer, cannot be sustained under law and therefore it is liable to be set aside and accordingly set aside. The matter is remitted back to the learned Presiding Officer, DRT-III, Chennai to dispose the securitization application afresh on merits and in accordance with

law after giving one opportunity to the appellant to file counter and produce documents in support of the appellant's case, as expeditiously as possible. Accordingly, this appeal is disposed. Parties shall bear their own costs. Pending IAs, if any shall stand closed.

[Dictated to Steno (ra) in open court, transcribed by her, corrected and signed by me, this 6th day of August, 2026]

Sd/-
(Justice G. Chandrasekharan)
CHAIRPERSON