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) 123 of 2024
(arising out of SA No. 77 of 2023 on the file of DRT-III, Chennai)

Between

1. Roche. S,
   S/o. Sesurajan,
   No. 23, Chakarabani Nagar,
   Gerugambakkam,
   Kancheepuram District – 600 122.

2. Sheela. R.,
   W/o. Roche,
   No. 23, Chakarabani Nagar,
   Gerugambakkam,
   Kancheepuram District – 600 122.

3. Annai Decorators,
   Represented by its Proprietor Roche. S,
   No. 23, Chakarabani Nagar,
   Gerugambakkam,
   Kancheepuram District – 600 122.

… Appellants

And

The Authorised Officer,
Cholamandalam Investment and Finance Company Ltd,
Dare House 2, N.S.C. Bose Road,
Parrys, Chennai – 600 001.

…Respondent

Counsel for Appellants: M/s. C.M. Mohana Sundaram
Counsel for Respondents: M/s. Kishore Balasubramanian

ORDER

Learned Counsel for both sides are present.

2. This appeal is filed against final order passed in SA 77 of 2023 by the Learned Presiding Officer, DRT-III, Chennai on 9.2.2024.

3. SA 77 of 2023 has been filed to set aside the possession notice dated 24.12.2022 issued under Section 13(4) of the SARFAESI Act, 2002. The possession notice has been challenged on the grounds that –

i) The debt is not a secured debt and, therefore, issuing notice under Section 13(4) of the SARFAESI Act, 2002 is liable to be set aside.

ii) The amount demanded at Rs.42,35,388/- in the possession notice is contrary to the statement of accounts.

iii) The charge of interest is excessive.

iv) To the demand notice issued, Appellants sent an objection dated 8.12.2022 denying the liability. It was replied by the Responded Bank on 16.12.2022 alleging that the account was regularised in the month of March.

v) The Respondent Bank failed to affix the possession notice on the secured asset.

vi) Respondent Financial Institution violated Section 26(d) of the SARFAESI Act, 2002 by not registering the secured asset with the central registry.

4. Learned Presiding Officer, DRT-III, Chennai passed an order on 19.1.2024 taking note of the fact that physical possession of the secured asset has been taken, sale was concluded in favour of the auction purchaser, and that there was a request from the Appellants to remove the possession of Appellant's belongings, permitted the Appellants to approach the Respondent to remove the belongings. Mr. V. Adithiyan, Learned Counsel was appointed as Advocate Commissioner to oversee the removal of lock and key by the Authorised Officer and removal of all the belongings of the Appellants. Thereafter, on 9.2.2024, after recording that Appellants have removed their belongings and handed over the physical possession to the Respondent Financial Institution, disposed of the Securitization Application as nothing survives for adjudication in the Securitization Application.

5. Learned Counsel for Appellants submitted that the very classification of the account as NPA is illegal and other grounds raised in the Securitization Application have not been considered by the DRT. Thus, he prays for setting aside the impugned order and allowing this appeal.

6. In contrast, Learned Counsel for Respondent Financial Institution submitted that the physical possession of the secured asset has been taken by obtaining orders under Section 14 of the SARFAESI Act, 2002, property has also been sold, and physical possession delivered to the auction purchaser, and nothing survives in this appeal.

7. Considered the rival submissions and perused the records.

8. From the submissions made by the Learned Counsel for the Parties, it is made abundantly clear that the physical possession of the secured asset was taken in pursuance of the order dated 31.10.2023 passed by the Learned Chief Judicial Magistrate under Section 14 of the SARFAESI Act, 2002, property has been sold and physical possession was also delivered to the auction purchaser. Therefore, this Tribunal concurs with the view of the Learned Presiding Officer, DRT-III, Chennai that nothing survives for adjudication in the Securitization Application and in this appeal.

9. With regard to the submissions of the Learned Counsel for Appellants on classification of the account as NPA, this Tribunal finds that there is no specific ground taken in the SARFAESI Application as regards the alleged wrong classification of the account as NPA. On other grounds taken in the Securitization Application, they are only formal grounds without any substantive materials. Learned Counsel for Respondent confirms that CERSAI Registration was done in respect of the secured asset.

10. As per the decision of the Hon'ble Supreme Court of India in re, **Standard Chartered Bank Vs. V. Noble Kumar and Others reported in (2013) 9 SCC 620**, it is not required that the possession notice under Section 13(4) of the SARFAESI Act, 2002 is to be issued for taking physical possession of the secured asset. Thus, there are no grounds made out for

interfering with the order dated 9.2.2024 of the Learned Presiding Officer, DRT-III, Chennai.

11. Thus, the order dated 9.2.2024 of the Learned Presiding Officer, DRT-III, Chennai is confirmed and appeal RA (SA) 123 of 2024 is dismissed.

12. Parties are directed to bear their own costs.

13. Pending IAs, if any, stand closed.

Sd/-
(JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON