IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 21st day of October, 2026

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

IA 855 of 2026 (Delay) in AIR (SA) 1070 of 2026
(arising out of NDN (SA) No.1978 of 2025 on the file of DRT-I, Kerala at Ernakulam)

Between

Sudish P.K.,
S/o. M.P. Sahadevan,
OM Nivas, Kizhuthalli House,
P.O. Thazhe Chovva,
Kannur – 670 018

… Appellant

And

1. Indian Overseas Bank,
(Secured Creditor)
Represented by its Authorized Officer,
Kannur Branch, Fort Road,
Kannur – 670 001

2. Santhoshkumar C.V.,
Residing at
M.C. House, Beach Road,
Thayil P.O., Kannur,
Kerala – 670 003
(Auction Purchaser)

... Respondents

Counsel for Appellant: M/s. Moly E.V.
Counsel for 1st Respondent: M/s. V. Rajeswari

ORDER

Urgent application IA 854 of 2026 is allowed.

2. Learned Counsel for the Petitioner / Appellant and R1 Respondent Bank are present. No representation for R2.

3. This application is filed for condoning the delay of 88 days in filing this appeal.

4. Learned Counsel for the Petitioner submits that Petitioner filed NDN (SA) 1978 of 2025 to declare the sale of the secured asset conducted through e-auction on 9.9.2025 as illegal and to set aside the same, along with other reliefs. This Securitization Application has been dismissed on the ground that it was not filed within 45 days from the date of the sale and is filed beyond the period of limitation. It is further submitted that Petitioner filed OP (DRT) No. 371 of 2025 before the Hon'ble High Court of Kerala at Ernakulam and that was dismissed on 24.3.2026 giving the right to the Petitioner to avail alternative statutory remedy. In the said circumstances, this delay had arisen in filing this appeal.

5. He further submits that the Petitioner's secured asset was not properly valued and the Petitioner was not served with the sale notice. The Petitioner has raised meritorious grounds in the Securitization Application and he has every possibility of succeeding in the Securitization Application, if an opportunity is given.

6. Learned Counsel for the Respondent Bank strongly opposes to this application on the ground that the account of the Petitioner was declared as NPA on 29.9.2021, followed by issuance of demand notice on 25.11.2021. The possession notice was issued on 15.2.2023, and the first sale notice was issued on 25.9.2023, followed by the second sale notice on 16.8.2025, fixing the sale on 9.9.2025. The successful sale was held on 9.9.2025. The Petitioner then filed a writ petition before the Hon'ble High Court of Kerala at Ernakulam in W.P.(C) No.33077 of 2025 and that was disposed of on 23.10.2025. The sale

was confirmed. Thereafter, NDN (SA) No. 1978 of 2025 was filed impugning the sale conducted on 9.9.2025. The auction purchaser paid the entire sale proceeds on 24.11.2025 and the sale certificate was issued. The said NDN (SA) No. 1978 of 2025 was dismissed on limitation aspect on 23.12.2025. OP (DRT) No. 371 of 2025, filed by the Petitioner, was also dismissed on 24.3.2026 for want of limitation. IA 1 of 2026 filed in W.P.(C) No.33077 of 2025 was also dismissed which was filed for the purpose of saving limitation in the Securitization Application.

7. Considered the rival submissions and perused the records.

8. The opening paragraph of the order of the Hon'ble High Court of Kerala at Ernakulam shows that OD (DRT) 371 of 2025 was filed seeking directions to DRT-I, Kerala at Ernakulam to exclude the period from 3.9.2025 to 23.10.2025, i.e., the period during which W.P.(C) No. 33077 of 2025 was pending before the Hon'ble High Court of Kerala at Ernakulam, while computing the period of limitation for filing unregistered S.A. No. NDN 1978 of 2025, and number the NDN (SA) 1978 of 2025 and hear the stay application filed as IA No. 4420 of 2025 as expeditiously as possible.

9. The Hon'ble High Court of Kerala at Ernakulam, after recording that NDN (SA) 1978 of 2025 was rejected by the DRT-I, Kerala at Ernakulam since it was filed beyond the period of limitation, observed that the Original Petition (DRT) has become infructuous. Ultimately, the writ petition was dismissed giving opportunity to the Petitioner to approach the appropriate forum.

10. Be that as it may. It is a settled proposition of law that any proceeding against the measures taken under the SARFAESI Act, 2002, if aggrieved, should be agitated within 45 days from the date of initiation of such SARFAESI measures. That has not been done in this case. Even if the delay is condoned and the appeal is entertained, there is no way that the order of the Learned Presiding Officer, DRT-I, Kerala at Ernakulam can be set aside.

11. In this view of the matter, this Tribunal finds that there is no merit in condoning the delay of 88 days in filing this appeal. Thus, this delay application IA 855 of 2026 is dismissed. Consequently, appeal AIR (SA) 1070 of 2026 is rejected.

12. Parties are directed to bear their own costs.

13. Pending IAs, if any, stand closed.

Sd/-

(JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON