IN THE DEBTS RECOVERY TRIBUNAL-2, KERALA
AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated this the 29th day of April, 2026

SECURITIZATION APPLICATION No.446/2025

Between

Pramod Kumar Pandey,
Aged 62 years,
S/o. Shri Babu Lal Pandey,
Mehul TC 6/763 (3),
Anantha Nagar Vara 602 A,
Vatiyoorkavu,
Trivandrum, Kerala,
PIN – 695 013. …Applicant.

And

1. Union Bank of India,
Represented by its Authorised Officer,
Trivandrum Main Branch,
Union Bank Bhavan,
Statue, Trivandrum,
Kerala, PIN – 695 001.

2. The Manager, Union Bank of India,
NRI Branch, Mahatma Gandhi Road,
Statue, Palayam,
Thiruvananthapuram,
Kerala, PIN – 695 001. …Defendants.

This Securitization Application having been heard on 07.04.2026 in the presence of Advocate Yousouf Safwan representing Advocate P.T. Sheejish for the applicant and Advocate Sajitha representing Advocate Sreedevi B. for the defendants and

stood over to this day for consideration, the Tribunal delivered the following:

F I N A L O R D E R

Challenging the securitization proceeding initiated by the defendants under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'), the applicant has filed this SA under S.17(1) of the SARFAESI Act praying to set aside the notice dated 04.10.2025 issued by the Advocate Commissioner.

Brief facts of the case:

2.1 The applicant availed various loans aggregating to a sum of Rs.1,66,58,300/- from the defendant bank by mortgaging the subject matter property. Due to default in repayment a demand notice dated 07.03.2025 was issued calling the applicant to discharge the outstanding amount of Rs.1,31,38,674.93 within a statutory period of 60 days. Due to non-compliance a possession notice under Section 13(4) of the SARFAESI Act was issued to take possession of the secured asset.

2.2 It is claimed by the applicant in the SA that the interest charged in the account is excessive in violation of the Master Circular dated 03.03.2016 issued by the Reserve Bank of India. Though the

applicant has approached the defendants to rectify such charging of interest, they did not give any attention to the same and proceeded with the securitization proceeding. The applicant approached the banking Ombudsman for resolution of the dispute. During pendency of the same, the defendants issued possession notice under section 13(4) of the SARFAESI Act which is illegal.

2.3. The applicant claimed that after receipt of the demand notice, he raised objection under Section 13(3-A) of the SARFAESI Act alleging illegal classification of NPA and application of excessive interest in the loan account. But the defendants did not consider the same properly and an evasive reply had given. Hence the SA is filed challenging the demand notice and possession notice with a prayer to direct the defendant bank to apply the correct interest in the loan account with some consequential reliefs.

2.4. During pendency of the SA the applicant filed amendment application challenging the notice dated 04.10.2025 issued by the Advocate Commissioner and prayed to set aside the same.

3.1. On the other hand, the defendants filed written statement denying the averments and claimed *inter alia* that there is no illegality or irregularity in the securitization proceeding to interdict. As the loans of the applicant were highly irregular, the bank classified the loan as NPA on 28.02.2025 and issued a

demand notice dated 07.03.2025 calling the applicant to discharge the outstanding. Previously the loan was classified as NPA and a demand notice was issued on 01.12.2023 was issued. Due to remittance of overdue amount, the loan was upgraded. As the applicant committed default after upgradation of the loan, the same was turned to NPA again followed by issuance of a fresh demand notice.

3.2. Interest is charged in the loan account as per the terms and conditions of the agreement. Education loan availed by the applicant has a fixed rate of interest. Hence the same cannot be converted to EBLR as claimed by the applicant. The applicant has never claimed to convert the interest charged in Union Home Loan from the Base Rate to MCLR. Hence there is no error or arbitrary in charging interest on the Base Rate.

3.3 Conversion of Base Rate to MCLR or from MCLR to EBLR is not an automatic process. The borrower has to make a formal request and complete the necessary documentation to amend the adjusting contract. There is no illegality on the part of the bank to charge interest as per the terms and conditions of the contract. The applicant raised the issue before the Banking Ombudsman which was closed by the Ombudsman vide order dated 19.08.2025, marked Annexure-R1A.

3.4 All the statutory measures in the SARFAESI proceeding including the proceeding initiated before the Chief Judicial Magistrate Court, Thiruvananthapuram under Section 14 of the SARFAESI Advocate Commissioner are in accordance with the lawt. Hence the SA, being devoid of any merit, may be dismissed.

4. From the respective case of the applicant and defendants, the following points emerged for adjudication in this case:

(i) Whether the securitization proceeding initiated by the defendants suffers from any illegality or defect or irregularity to intervene with the same?

(ii) Whether the applicant is entitled to get any relief in this proceeding?

FINDINGS:

Point Nos.(i) & (ii):-

5. Admittedly the applicant has not disputed availing of various loan from the defendants by executing relevant documents. On receipt of the demand notice, the applicant raised objection under Section 13(3-A) of the SARFAESI Act disputing the charging of interest and the classification of the loan as NPA. He asked to convert all his loans from MCLR to EBLR retrospectively w.e.f. 01.04.2016 as per the RBI guidelines. The defendants issued a

reply to such letter on 29.04.2025 denying the objection and stated no excess interest is charged in the loan account.

6. During argument the learned counsel for the applicant submitted that measures taken by the defendant in the securitization proceeding is not challenged by the applicant. Only dispute is raised against charging of excessive interest in the loan account. Whereas the defendants claimed that there is no illegality in the charging of interest and the interest was charged as per the terms and conditions of the contract.

7. The applicant has raised the similar issue before the Banking Ombudsman. It was found by the Ombudsman that as the applicant did not execute necessary documents for conversion of the loans to EBLR. Complaint's request for retrospective adjustments to interest rates is not permissible. There is no deficiency of service on the part of the bank. Accordingly, the complaint was closed vide R1 A filed by the defendant.

8. Section 17(2) of the SARFAESI Act postulates as follows:-

> "*The Debts Recovery Tribunal shall consider whether any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor for enforcement of security are in accordance with the provisions of this Act and the rules made thereunder.*"

Under this provision the Debts Recovery Tribunal has jurisdiction to consider whether any of the measures referred to in sub-section 13 taken by the secured creditor for enforcement of security are in accordance with the provisions of the Act and the Rules made therein. Here in this case the defendant produced all relevant documents regarding compliance of all the statutory requirement. The applicant has also not raised any illegality in the securitization proceeding to interdict.

9. In view of the statutory provision the Tribunal cannot consider whether the interest in the loan account is excessively charged by the defendant bank in the loan accounts. In this case he applicant entered into a contract with the defendants at the time of availing the loan for charging the interest. The bank claimed that as the applicant did not execute relevant documents to loans to EBLR. It is also submitted that the Education loan cannot be converted to EBLR. Applicant raised the issue before the competent authority which turned down and this Tribunal, having limited jurisdiction, cannot adjudicate such controversy.

10. In a Full Bench judgement of the Hon'ble Madras High Court in the case of ***M/s.Lakshmi Shankar Mills (P) Ltd. & others vs. The Authorised Officer/Chief Manager, Indian***

Bank & others *[judgement dated 15.04.2008 in W.P.Nos.37148 & 37534/2007]*, at paragraph 21 it is held as follows:

> *"21. ……. However, we hasten to add that while considering the question of validity of the action of the bank, it is not necessary for the Tribunal to adjudicate the exact amount due to the secured creditors. In other words, the purpose of an application under Section 17 is not the determination of the quantum of claim per se as the Tribunal is concerned with the issue of the validity of the measures taken by the banks/financial institutions under Section 13(4). In our opinion, the judgment of the Division Bench in Mison Leathers Ltd., lays down the law correctly and does not require any reconsideration*."

In view of this ratio, the Tribunal jurisdiction is confined to find out validity and legality in the securitization proceeding and it cannot adjudicate the exact amount due to the secured creditor. The applicant has no legal right to raise the dispute about charging of excessive interest in this forum and the contention is not accepted.

11. In the SA the applicant has specifically stated that he submitted an OTS (One Time Settlement) proposal offering to pay 50% of the claim dues. However, the bank rejected it mechanically, showing no interest to explore genuine resolution. The applicant having approached the defendant for OTS it can be said that he accepted the claim amount. Now he cannot dispute that the interest charged is excessive.

12. The applicant has not established any other point showing any illegality or irregularity in the securitization proceeding, including the proceeding initiated before the CJM. In absence of any

illegality interference with the same is absolutely not necessary. Hence the points framed are answered against the applicant.

Hence it is ordered:-

ORDER

13. In view of the foregoing reasons, the SA, being devoid of any merit, is hereby dismissed, but in the circumstances, without costs.

In view of the disposal of the SA, IA No.2605/2025, seeking stay of the securitization proceeding is also closed.

(Dictated to my PA, corrected and pronounced by me in the open Tribunal on this the 29th day of April, 2026.

[SOVAN KUMAR DASH]
PRESIDING OFFICER

Documents on the part of the applicant

Annexures	Date	Particulars of documents
Annexure-A1	07.03.2025	True copy of the demand notice.
Annexure-A2	05.06.2025	True copy of the symbolic possession notice issued to the applicant by the 1st respondent.
Annexure-A2(a)	05.06.2025	True copy of the symbolic possession notice issued to the applicant by the 1st respondent.
Annexure-A3	03.03.2016	True copy of RBI's Master Direction regarding MCLR regime.
Annexure-A4	30.09.2019	True copy of Bank's notification regarding EBLR regime.
Annexure-A5	07.05.2022	True copy of the applicant's request letter to the bank for interest rate correction.
Annexure-A6	28.03.2025	True copy of the complaint filed by the applicant before the Banking Ombudsman.
Annexure-A7	08.05.2025	True copy of the respondent bank's reply to the Ombudsman.
Annexure-A8	19.05.2025	True copy of the applicant's objections/counter to the Bank's Reply before the Ombudsman.
Annexure-A9	04.06.2025	Copy of the interim reply from the Banking Ombudsman acknowledging the complaint.
Annexure-A10	03.05.2025	Copy of OTS proposal submitted to the bank by the applicant.
Annexure-A11	15.05.2025	Copy of rejection letter of the defendant bank to the OTS proposal.
Annexure-A12	21.04.2025	Copy of objection sent by the applicant under S.13(3-A) of the SARFAESI Act.
Annexure-A13	29.04.2025	Copy of reply to the objection sent by the defendant bank.

Annexure-A14	14.02.2022	Copy of circular issued by the defendant bank.
Annexure-A15	07.05.2022	Copy of email request submitted to the defendant bank by the applicant.
Annexure-A16	24.05.2022	Coy of email request from the applicant to the defendant.
Annexure-A17	23.07.2023	Coy of email request from the applicant to the defendant.
Annexure-A18	28.07.2023	Coy of email request from the applicant to the defendant.
Annexure-A19	09.09.2024	Coy of email request from the applicant to the defendant.
Annexure-A20	27.03.2025	Coy of email request from the applicant to the defendant.
Annexure-A21	31.05.2025	Coy of email request from the applicant to the defendant.
Annexure-A22	12.01.2023	Copy of letter issued to VSSC by the defendant bank.
Annexure-A23	29.04.2024	Copy of RBI notification regarding fair practices codes on the charging of interest by banks.
Annexure-A24	05.07.2019	Copy of letters issued to the applicant by the defendant bank.
Annexure-A25	15.03.2025	Copy of reply submitted by the Zonal Office of the defendant bank.

Documents on the part of the defendants

Annexures	**Date**	**Particulars of documents**
Annexure-R1A	19.08.2025	True copy of the order passed by the Ombudsman.

PRESIDING OFFICER

IN THE DEBTS RECOVERY TRIBUNAL-2,
KERALA AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated the 29th April, 2026

SA No.446/2025

Between

Pramod Kumar Pandey,
Aged 62 years,
S/o. Shri Babu Lal Pandey,
Mehul TC 6/763 (3),
Anantha Nagar Vara 602 A,
Vatiyoorkavu,
Trivandrum, Kerala,
PIN – 695 013. …Applicant

And

Union Bank of India,
Represented by its Authorised Officer,
Trivandrum Main Branch,
Union Bank Bhavan,
Statue, Trivandrum,
Kerala,
PIN – 695 001 & Anr. …Defendants

F I N A L O R D E R