Fair Order

IN THE DEBTS RECOVERY TRIBUNAL - 1 AT ERNAKULAM

DATED THIS 21st DAY OF APRIL, 2026

PRESENT: Su. WILLYAHM, B.Sc., M.L.
[DISTRICT JUDGE - Retd]
PRESIDING OFFICER

S.A No. 585 of 2023

Between

1. Anil Kumar C.
S/o.Bhaskaran,
Chapothil,
Nochipoyil,
Kunnamangala,
Kozhikode-673571.

2. Deepa K.P.,
W/o.Anil Kumar C.,
Chapothil,
Nochipoyil,
Kunnamangala,
Kozhikode-673571

3. Anil Kumnar V.,
S/o.Apputty,
Chethukadavu,
Kunnamangalam,
Kozhikode-673571.

--- Applicants

And

The Federal Bank Limited,
Kozhikode Main Branch,
represented by Authorised Officer,
LCRD/Kozhikode Division,
1st Floor, Federal Towers,
Mavoor Road, Arayidathupalam,
Kozhikode-673016.

--- Defendants

This Securitization Application coming on 21.08.2025 and on 05.02.2026 for final hearing before me in the presence of Mr. Anantu V. Lal Advocate representing the counsel on record for the defendant and the counsel for the applicants having failed to appear and advance argument and upon hearing arguments of learned Counsel for the defendant and upon perusing the material on records, this Tribunal delivered the following:

O R D E R

1. This Securitisation Application was filed on 09.10.2023 seeking to set aside Annexure-A1, A2 and A12 notices and to permit the applicants to remit the remaining loan amounts in instalments after restructuring the loan accounts by reducing exorbitant penal interest rates and to remit the remaining loan amount in one time settlement basis.

2. The applicants availed various credit facilities from the defendant bank upon creation of equitable mortgage over their 13 items of immovable properties as set out in the schedule to the SA by deposit of title deeds with the defendant bank as the collateral securities for the aforesaid availment of the credit facilities.

3. According to the defendant bank, since the applicants defaulted in repayment of the outstanding loan accounts, their loan accounts were classified as Non-Performing Asset and Annexure-B1 demand notice dated 13.2.2023 (applicants have produced the copy of demand notice as Annexure-A1) were issued to the applicants calling upon them to repay the outstanding loan due within a period of 60 days from the date of receipt of the demand notice.

4. The receipt of the demand notice was admitted by the applicants in the SA. Further, the defendant has produced Annexure-B2 copies of postal receipts and Annexure-B2 (a) copies of acknowledgment cards in order to prove the service of the demand notice to the applicants. Indisputably, the applicants neither sent any objection/representation to the demand notice nor and did they clear off their liability due to the defendant bank.

5. Therefore, Annexure-A2 possession notice dated 27.4.2023 (copy of the possession notice has been produced by the defendant as Annexure-B3) for issued for symbolically taking physical possession of the secured assets. Annexure-B3 (a), B4, B4 (a), and B5 produced by the defendant evidences the service of possession notice to the applicants and its publication in two leading newspaper one in Hindu English edition dated 29.4.2023 and another in Desabhimani

Malayalam edition dated 29.4.2023 and also its affixture on the conspicuous part of the secured assets.

6. The applicants have contented in the SA that the loan accounts of the applicants were classified as Non-Performing Asset in violation of the provisions of the SARFAESI Act 2002, since the applicants were making substantial payments towards their loan accounts and that exorbitant rate of interest has been levied and that the secured assets were agricultural lands on the date of creation of security interest over the same and Annexure-A3 to A11 documents prove the nature of the secured assets as agricultural lands and that therefore, the secured assets are exempted u/s 31 (i) of the SARFAESI Act 2002 and that the proceedings before the Chief Judicial Magistrate Court, were initiated without issuance of any notice to the applicants and that therefore, the SA may be allowed as prayed for.

7. The counsel appearing for the defendant submitted that since the applicants defaulted repaying the loan amounts, their loan accounts were classified as Non-Performing Asset as mentioned in Annexure-B1 demand notice in accordance with RBI guidelines and that since they failed to regularize their loan accounts even after issuance of the demand notice, Annexure-B3 possession notice was issued for symbolically taking physical possession of the secured assets. All the statutory requirements were complied with in respect of issuance of the possession notice. Measures under Sec.14 were initiated against the secured assets in accordance with the SARFAESI Act 2002 and the Rules made there under. The secured assets were not agricultural properties as contended by the applicants. Annexure-B6, B6 (a) to B6 (j) valuation reports evidences the nature of the secured assets as residential properties. There is no illegality in the measures initiated by the defendant and that therefore SA may be dismissed with cost to the defendant.

8. In Annexure-A1 demand notice it is clearly stated that since the applicants defaulted in repayment of the outstanding loan due, in violation of the agreed terms, the loan accounts became Non-Performing Asset as per RBI guidelines. Though the applicants received the demand notice, they failed to send any objection/ representation stating that the classification of loan accounts as Non-Performing Asset is in violation of the RBI guidelines and that the rate of interest has been charged exorbitantly. Further no material has been produced by the applicants before this Tribunal to prove the above claim. Therefore, the above contention of the applicants is liable to be rejected in toto.

9. Annexure-B3 (a) to B5 produced by the defendant strengthens the contention of the defendant that there is no procedural irregularity in respect of issuance of the possession notice.

10. The main contention raised by the applicants in the SA is that all the 13 items of the secured assets are agricultural properties and that the properties were also the agricultural properties on the date of creation of security interest over the same. The counsel appearing for the applicants also cited the judgment of the Hon'ble Supreme Court delivered in ***Indian Bank Vs. K. Pappireddiyar (2018 SCC 742)*** and also Annexure-A3 to A11 copies of title deeds and Annexure-A13 to A16 certificates issued by the Agricultural Officer, Kunnamangalam and Annexure-A17 photographs to prove the contention of the applicants that secured assets are agricultural properties.

11. The counsel appearing for the defendant has produced Annexure-B6, B6(a) to B6 (j) copies of valuation report pertaining to the secured assets in order to prove the contention of the defendant that the nature of the secured assets are residential properties.

12. In Annexure-A3 partition deed, the nature of the lands are described as "Thottam". In Annexure-A4 sale deed, the nature of the land is described as "parambu" which means 'purayidom'. In Annexure-A5 sale deed the nature of the land is described as 'Nanja'. In Annexure-A6 sale deed, the nature of the land is described as 'parambu'. In Annexure-A7 sale deed, the nature of the land is described as 'Thottam". In Annexure-A8 sale deed, the nature of land is described as "Thottam". In Annexure-A9 sale deed, the nature of land is described as "Thottam". In Annexure-A10 sale deed, the nature of land is described as "Thottam". In Annexure-A11 sale deed, the nature of land is described as "Thottam".

13. It is pertinent to mention that Annexure-A3 was executed on 04.07.2016 and Annexure-A4 was executed on 13.02.1983 and Annexure-A5 was executed on 06.09.1993 and Annexure-A6 was executed on 26.06.2013 and Annexure-A7 was executed on 29.4.2004 and Annexure-A8 was executed on 19.6.2012 and Annexure-A9 was executed on 01.11.2017 and Annexure-A10 was executed on 02.07.2021 and Annexure-A11 was executed on 19.06.2012.

14. The applicants have not produced any supporting such as revenue documents in order to prove their claim that secured assets were the agricultural properties on the date of creation of security interest over the same. It is not in dispute that security interest over the properties was created in the year 2020. It is also pertinent to mention herein that though in some documents, the nature of the properties is described as "thottam", in some other documents the nature of the properties is described as 'parambu' which means purayidom, ie., not agricultural land.

15. In **Indian Bank & ors. Vs. K.Pappireddiyar & ors. (MANU/SC/0766/ 2018)** which is relied upon by the counsel for the applicants, the Hon'ble Supreme Court has held as follows:

> **"9. *The classification of land in the revenue records as agricultural is not dispositive or conclusive of the question whether the SARFAESI Act does or does not apply. Whether a parcel of land is agricultural must be deduced as a matter of fact from the nature of the land, the use to which it was being put on the date of the creation of the security interest and the purpose for which it was set apart."***

In the present case on hand, no material or relevant documents has been produced by the applicants in order to substantiate their claim that the secured assets were the agricultural properties on the date of creation of security interest over the same.

16. A perusal of Annexure-A13 to A16 certificates issued by the Agricultural Officer, Krishi Bhavan, Kunnamangalam, Kozhikode district shows that the above certificates were issued without making personal inspection to the secured assets by the concerned Agricultural Officer in order to ascertain the lie and nature of the properties. Further, there is no specific mention in the above certificates as to whether any agricultural activities were carried on the secured assets. No supporting documents have been produced by the applicants in order to show that Annexure-A17 photographs are pertaining to the secured assets. Further, a perusal of the same shows the existence of few coconut and other trees here and there. Hence no reliance can be relied upon the aforesaid documents in order to prove the contention of the applicants that secured assets were agricultural properties on the date of creation of security interest over the same.

17. Whereas the defendant has produced Annexure-B6, B6 (a) to B6 (j) valuation reports in order to prove the contention that the nature of the secured assets are residential in nature. A perusal of the above valuation reports clearly shows and indicates that the nature of all the secured assets are residential in nature/residential plots. Therefore, this Tribunal is not inclined to rely upon Annexure-A3 to A11 documents produced by the applicants to accept their contention that secured assets are agricultural properties.

18. The provisions of Sec. 14 (1) SARFAESI Act 2002 neither contemplates nor does mandate the secured creditor as well as the Authorized Officer to issue prior intimation to the borrowers/ guarantors before initiation of the measures for taking physical possession of the secured assets. Apart from the aforesaid contention,

the applicants have not raised any other contentions with regard to non-compliance of the statutory requirements contemplated under Clause (i) to (ix) to the provisions of Section 14 (1) of the SARFAESI Act 2002. There is also no specific challenge in the SA as to whether the order passed by the learned Chief Judicial Magistrate, Kozhikode in CMP No.1240/2023 suffers from any illegality or infirmity. Without challenging the order passed for taking physical possession of the secured assets, the mere challenge with regard to Annexure-A12 notice issued by the Advocate Commissioner is unsustainable.

19. One of the reliefs sought for by the applicants in the SA is to permit them to remit the remaining loan amounts in instalments after restructuring the loan accounts by reducing exorbitant penal interest rates. The aforesaid relief does not fall under any of measures referred to u/s 13 (4) of the SARFAESI Act 2002. It is for the applicants to approach the defendant bank to get the aforesaid relief.

20. The applicants have failed to establish their case so as to get the relief sought for in the SA.

21. In view of the foregoing reasons, this Tribunal holds that the applicants are not entitled to get the reliefs sought for in the SA.

Resultantly, S.A No.585/2023 stands dismissed. However, there shall be no order as to costs.

Dictated to Steno, taken down, transcribed, typed by him, corrected and pronounced by me in the open court on this the 21st day of April, 2026.

(Su. WILLYAHM)
PRESIDING OFFICER

Mj/-

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S C H E D U L E 'A'

Description of the property

All the piece and parcel of land having an extent of 11.13 Ares (27.49 Cents) of land situated in Re-Survey No.235/2 (Sy.No.547/1) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A3.

Boundaries

North	: Property of Anitha and Anila
East	: Edavazhi
South	: Property of others
West	: Cholakara Pala Nilkunnakandymore

S C H E D U L E 'B'

Description of the property

All the piece and parcel of land having an extent of 3.643 Ares (9 Cents) of land situated in Re-Survey No.399/2 (Sy.No.286/3A) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A3.

Boundaries

North	: Property of others
East	: Property of others
South	: Edavazhi
West	: Property of Anila

S C H E D U L E 'C'

Description of the property

All the piece and parcel of land having an extent of 3.542 Ares (8.75 Cents) of land situated in Re-Survey No.404/3 (Sy.No.305/5) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A3.

Boundaries

North	: Edavazhi
East	: Naduvilakkandy Parambu
South	: Property of others
West	: Panchayat Road

S C H E D U L E 'D'

Description of the property

All the piece and parcel of land having an extent of 8.093 Ares (20 Cents) of land situated in Re-Survey No.238/2 (Sy.No.551/2B) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A4.

Boundaries

North	: Property of others
East	: Thodu
South	: PWD Road
West	: Property of others

S C H E D U L E 'E'

Description of the property

All the piece and parcel of land having an extent of 8.297 Ares (20.49 Cents) of land situated in Re-Survey No.397/1 (Sy.No.285/2) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A5.

Boundaries

North	: PWD Road
East	: Edavazhi
South	: Nachipoyil Nilam
West	: Property of Anila

S C H E D U L E 'F'

Description of the property

All the piece and parcel of land having an extent of 4.047 Ares (10 Cents) of land situated in Re-Survey No.419/6 (Sy.No.298/5) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A6.

Boundaries

North	: Menikattil parambu
East	: Remaining property
South	: Property of Chandran
West	: PWD Road

S C H E D U L E 'G'

Description of the property

All the piece and parcel of land having an extent of 6.57 Ares (16.25 Cents) of land situated in Re-Survey No.415/58 (Sy.No.291/2) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A7.

Boundaries

North	: Theeruvitta Sthalam
East	: Road
South	: Remaining property
West	: Remaining property

S C H E D U L E 'H'

Description of the property

All the piece and parcel of land having an extent of 4.189 Ares (10.35 Cents) of land situated in Re-Survey No.402/1 (Sy.No.308 & 309) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A8.

Boundaries

North	: Vazhi Sthalam
East	: Panchayath Road and remaining property
South	: Property of Sadanandan
West	: Property of Deepa

S C H E D U L E 'I'

Description of the property

All the piece and parcel of land having an extent of 0.6354 Ares (1.57 Cents) of land situated in Re-Survey No.402/1 (402/8 in title deed as per Thandapper of prior owner) (Sy. No.402/16) (As per Thandapper of present owner) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A9.

Boundaries

North	: Property of Sivadasan
East	: Property of Suresh Kumar
South	: Private Road
West	: Item Nos.1 and 2 above

S C H E D U L E 'J'

Description of the property

All the piece and parcel of land having an extent of 1.979 Ares (4.89 Cents) of land situated in Re-Survey No.402/1 (402/6 in title deed as per Thandapper of prior owner) (Sy. No.402/15) (As per Thandappr of present owner) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A9.

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Boundaries

North	: Item No.3 above
East	: Item No.1 above
South	: Private Road
West	: Property of Jitesh

S C H E D U L E 'K'

Description of the property

All the piece and parcel of land having an extent of 1.71 Ares (4.22 Cents) of land situated in Re-Survey No.402/1 (402/6 in the title deed as per Thandapper of prior owner) (Sy. No.402/14) (As per Thandapper of present owner) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A9.

Boundaries

North	: Property of Sivadasan
East	: Item No.1 above
South	: Item No.2 above
West	: Property of Jitesh

S C H E D U L E 'L'

Description of the property

All the piece and parcel of land having an extent of 24.29 Ares (60 Cents) of land situated in Re-Survey No.401/1A (Sy. No.401/42 as per

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Thandapper of prior owner) (Sy. No.402/16) (As per Thandappr of present owners) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A10.

Boundaries

North	: Remaining Property
East	: Remaining Property
South	: Remainder 3.05 meter wide lane
West	: Property of Beena

S C H E D U L E 'M'

Description of the property

All the piece and parcel of land having an extent of 3.461 Ares (8.55 Cents) of land situated in Re-Survey No.402/1 (Sy. No.308 and 309) of Kunnamangalam Village, Kozhikode Taluk, Kozhikode District, more fully described in Annexure A11.

Boundaries

North	: Remaining property and 3.05 meter wide land
East	: Property of Anil Kumar as Land set apart of Road
South	: Property of others
West	: Thevarkandy parambu

(Su. WILLYAHM)
PRESIDING OFFICER

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List of documents filed by the Applicant along with the S.A.

Sl. No.	Date	Particulars	
1.	13.02.2023	True copy of demand notice issued by the defendant.	Annexure-1
2.	27.04.2023	True copy of the possession notice	Annexure-2
3.	04.07.2016	True copy of the partition deed No.2761 of 2016 of Chathamangalam SRO along with the translated copy.	Annexure-3
4.	13.02.1983	True copy of the title deed No.398/1983 of Chathamangalam SRO along with release deed dt.11.04.1983 and two rectification deeds dt. 04.07.1991 and its translated copy.	Annexure-4
5.	06.09.1993	True copy of the title deed No.2352/1993 of Chathamangalam SRO along with the translated copy	Annexure-5
6.	26.06.2013	True copy of the title deed no.2342/13 of Chathamangalam SRO along with the translated copy.	Annexure-6
7.	29.04.2004	True copy of the title deed No.1466/2004 of Chathamangalam SRO along with the translated copy	Annexure-7
8.	19.06.2012	True copy of the title deed No.2360/2012 of Chathamangalam SRO along with the translated copy,	Annexure-8
9.	01.11.2017	True copy of the title deed No.2423/2017 of Chathamangalam SRO along with rectification deed dated 13.03.2020 and the translated copy.	Annexure-9
10.	02.07.2021	True copy of the title deed No.1415/2021 of Chathamangalam SRO along with the translated copy.	Annexure-10
11.	19.06.2012	True copy of the title deed No. of Chathamangalam SRO along with the translated copy.	Annexure-11
12.	08.09.2023	True copy of the Advocate Commissioner notice.	Annexure-12
13.	22.02.2025	True copy of the certificate of the Agricultural Officer, Kunnamangalam in respect of the property in Re. Sy. No.404/58.	Annexure-13

14.	22.02.2025	True copy of the certificate of the Agricultural Officer, Kunnamangalam in respect of the property in Re. Sy. No.402/39 & 402/40.	Annexure-14
15.	22.02.2025	True copy of the certificate of the Agricultural Officer, Kunnamangalam in respect of the property in Re. Sy. No.402/14, 402/15, 402/16, 402/38, 402/37, 404/64, 238/25, 399/34, 397/16 and 235/27.	Annexure-15
16.	22.02.2025	True copy of the certificate of the Agricultural Officer, Kunnamangalam in respect of the property in Re. Sy. No.401/42.	Annexure-16
17.	---	Photographs of the secured properties.	Annexure-17

List of documents filed by the defendant along with the written statement

Sl. No.	Date	Particulars	
1.	13.02.2023	Copy of demand notice	Annexure-B1
2.	---	Copy of postal receipts evidencing the issuance of demand notice.	Annexure-B2
3.	---	Copy of acknowledgment cards evidencing the receipt of demand notice by the applicants and co-borrower.	Annexure-B2a
4.	27.04.2023	Copy of possession notice issued by the defendant bank.	Annexure-B3
5.	---	Copy of the postal receipts evidencing issuance of possession notice to the applicants.	Annexure-B3a
6.	29.04.2023	Copy of paper publication of possession notice made in English daily "The Hindu"	Annexure-B4
7.	29.04.2023	Copy of paper publication of possession notice made in Malayalam daily "Deshabhimani"	Annexure-B4a
8.	---	Photograph evidencing the affixture of the possession on conspicuous part of the building in the secured properties.	Annexure-B5
9.	---	Copy of valuation report evidencing the residential status of the security property	Annexure-B6

10.	10.11.2021	Copy of valuation report evidencing the residential status of the security property	Annexure-B6a
11.	10.11.2021	Copy of valuation report evidencing the residential status of the security property	Annexure-B6b
12.	10.11.2021	Copy of valuation report evidencing the residential status of the security property	Annexure-B6c
13.	10.11.2021	Copy of valuation report evidencing the residential status of the security property	Annexure-B6d
14.	10.11.2021	Copy of valuation report evidencing the residential status of the security property	Annexure-B6e
15.	10.11.2021	Copy of valuation report evidencing the residential status of the security property	Annexure-B6f
16.	10.11.2021	Copy of valuation report evidencing the residential status of the security property	Annexure-B6g
17	10.11.2021	Copy of valuation report evidencing the residential status of the security property	Annexure-B6h
18.	10.11.2021	Copy of valuation report evidencing the residential status of the security property	Annexure-B6i
19.	28.06.2022	Copy of valuation report evidencing the residential status of the security property	Annexure-B6j

(Su. WILLYAHM)
PRESIDING OFFICER

Mj/

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