Fair Order

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI

DATED THIS 13th DAY OF APRIL, 2026

PRESENT: SEEMA SINHA
[PR. DISTRICT & SESSIONS JUDGE - Retd]
PRESIDING OFFICER

SA No. 71/2019

S.V. Ramasamy,
S/o. R.M. Sevugan,
No. B-10, S.V. Castle Apartments,
No. 63, T.V. Lane,
Madurai – 625 001. --- Applicant

-Vs-

The Authorized Officer,
Canara Bank,
East Masi Street Branch,
Madurai. --- Defendant Bank

Appearance of Advocates:
Mr. M. Saravanan ***---- Counsel for the Applicant***
Mr. R. Pandivel ***---- Counsel for the Defendant Bank***

This SARFAESI Application was heard in the presence of Counsels for the Applicant and Defendant Bank and fixed for final order before me and upon hearing the arguments of the Counsels and having stood over for consideration till this day, this Tribunal delivered the following:

O R D E R

1. This Application has been filed under Sec.17(1) of the SARFAESI Act 2002 by the Applicant praying that this Hon'ble Tribunal may be pleased to pass an order setting aside the Impugned E-Auction Sale Notice dated 27.12.2018 issued by the Defendant Bank as illegal, null and void.

2. The brief averments of the Application filed by the Applicant are as follows:-

It is the case of the Applicant is that he borrowed Housing Loan from the Defendant Bank to purchase the residential apartment situated in Anmol Bougain Villea, Madurai. On 11.03.2005, the Defendant Bank sanctioned Housing Loan of Rs. 6,20,000/-. An equitable mortgage was created in favour of the Defendant Bank as security for the repayment of the said loan. Further, it is stated that the Applicant had completed the payment of 120 EMI amounts of Rs. 9,12,200/- without any default. As on 30.03.2015, he has discharged the entire loan amount with interest inconformity with the loan agreement. He has also paid excess amount of Rs. 21,707/- over and above the actual amount due as per loan agreement. Thus, he had liquated entire mortgage money and that there are no arrears of loan amount to his knowledge.

It is further submitted that the Applicant is entitled to receive back the title deeds of his house from the Defendant Bank with due endorsement evidencing discharge of the entire Mortgage Loan. The Applicant is dutiful and sincere in repaying the EMI amount without any default. While so, the Defendant Bank owes a duty to return the title deed to him. Further, it is stated that since the Applicant had discharged the entire Mortgage Loan, he has requested the Defendant Bank in person to return the title deeds of the mortgaged property. However, the Defendant Bank was not inclined to return the documents for some reason known only to them and not disclosed the same. Therefore, the Applicant persuaded the Defendant Bank to return the same as deprivation of the title deeds of his properties was sure to place him in financially disadvantageous position. However, the Defendant Bank stubbornly refused to return to the same, thereby committing gross deficiency of service.

It is further submitted that the Senior Manager of the Defendant Bank shouted at the Applicant stating that there was still a sum of Rs. 1,78,553/- outstanding in the loan account as arrears and therefore the loan documents title deeds would not be returned. The claim of arrears was sudden and unexplained. The Defendant Bank had received the EMI payments without protest. Neither had it informed the Applicant that the arrears were accruing. The claim of arrears was an afterthought and false. The Senior Manager committed deficiency of banking service not only in refusing to return the Applicant's loan documents but also in abusing him verbally and treating him as a chronic defaulter.

It is further submitted that the Applicant had also borrowed a sum of Rs. 3.00 Lakhs as agricultural jewel loan by pledging his 250 grams of gold jewels on 16.05.2014. As on 07.08.2015, he had paid the sum of Rs. 3,29,084/- towards full discharge of the said loan with interest. In fact, he had discharged his entire obligation as per the conditions of the Agricultural jewel loan. But the Senior Manager refused to return the pledged jewels. To

the severe shock and surprise, the Senior Manager is keeping the redeemed jewels in the bank thereby depriving the Applicant, the possession of his jewels. The present value of the said 250 grams of gold jewels is nearly Rs. 10 Lakhs. The senior manager of the Defendant Bank calculatedly refused to hand over the redeemed jewels knowing well that it would affect the Applicant. The Applicant estimated the loss of Rs. 39.00 Lakhs, which the Defendant Bank and its officers are liable to pay with interest and cost. The Applicant issued notice dated 03.10.2015 to the Defendant Bank and the same was duly received by them, but not responded. Again, the Applicant sent notice through his Advocate to the Defendant Bank on 02.10.2016. They have received the same, but not responded. Hence, the Applicant filed a complaint before the State Consumer Disputes Redressal Commission, Madurai in C.C.SR.No. 223 of 2017.

It is further submitted that the Defendant Bank issued Demand Notice dated 31.08.2018, which was duly objected by the Applicant. The Bank had also given reply to the objection of the Applicant. Thereafter, the Defendant Bank issued a Possession Notice dated 08.11.2018 and the Sale Notice dated 27.12.2018. As the Impugned E-Auction Sale Notice dated 27.12.2018 is ex-facie illegal, the present appeal is filed on the following among other

Main Grounds: -

1. The E-Auction Sale Notice dated 27.12.2018 issued by the Bank is arbitrary and liable to be set aside.
2. The Defendant Bank has not given prior notice before classifying the account as NPA.
3. The E-Auction Sale Notice was not delivered on the Applicant by the Authorized Officer and not affixed on the outer door of the property and not published in two leading newspapers.
4. There is no valid mortgage created over the security.
5. The security has not been registered with Central Registry U/s. 23 of the SARFAESI Act and hence SARFAESI proceedings cannot be enforced.
6. The interest charged is excessive and not according to RBI guidelines.
7. The demand is excessive, not legally tenable and the liability is disputed.
8. The Applicant has raised objection to the Demand Notice dated 31.8.18 by a letter dated 29.10.18.
9. The liability is disputed one and consumer case is pending before the State Consumer Disputes Redressal Commission, Madurai in this regard.

DESCRIPTION OF PROPERTY

Undivided Land share of 356 sq.ft. at premises No. 107, P.T. Rajan Road, Madurai situated at Jari Bibikulam and comprised in Old Ward No. 10 and New

Ward No. 18-1 and T.S.No. 2742/4 and Resurvey No. 5/4, land measuring 22 cents 208 sq.ft. and bounded on the following boundaries,

North by : L. Ramakrishnan's house (C. Lakshmi Nivas Bungalow)
East by : 40 Feet Road
South by : P.T. Rajan Road
West by : Sri. Sundaresan house (Previously Lakshmipathy Iyer land)

Flat F1 of 891 sq.ft in the building "ANMOL BOUGAIN VILLA" build in the area mentioned above.

The Applicant has submitted the following List of documents in support of her claim in the SA, which are as follows:

S.No.	Date	Documents/Annexure
1.	25.01.2019	Memorandum of Appeal
2.	--	Schedule
3.	07.2017	Consumer Complaint in C.C.SR.No. 223/2017 on the State Consumer Disputes Redressal Commission, Madurai
4.	29.10.2018	Objection given by the Applicant to the 13(2) notice and its acknowledgement
5.	05.11.2018	Sec.13(2) notice issued by the Defendant
6.	08.11.2018	Possession Notice issued by the Defendant
7.	27.12.2018	Impugned Sale Notice issued by the Defendant
8.	25.01.2019	Service Reports

Index to Addl. Typed set

S.No.	Date	Description
1.	02.10.2016	Letter given by the Applicant
2.	14.10.2016	Postal Department delivery certificate

3. On the other hand, the Counsel for the Defendant Bank appeared before this Tribunal and filed Vakalat, Reply Statement & Typed set of papers wherein it is submitted that the Defendant Bank properly intimated the Applicant with regard to the NPA classification and further the account has properly declared as NPA in accordance with the guidelines of RBI. The Sale Notice issued by the Defendant Bank is not arbitrary in nature and that there is a valid mortgage created by the Applicant with the Defendant Bank over the property. Further, the Defendant Bank registered the transactions with Central Registry as per Section 20 of SARFAESI Act.

It is further submitted that the Defendant Bank charged interest as per the agreed contractual terms and that the measures of the Defendant Bank are in accordance with the provisions of Act. Further, the demands of the Defendant Bank are legally tenable. Further it is stated that the Defendant Bank made proper reply for the objection as raised by the Applicant u/s.

13(3A) of SARFAESI Act. Further, the claim of the Defendant Bank is well within the limitation and that the debt is being legally recoverable in time and that the limitation period of 3 years for issuance of Demand Notice from the date of last installment does not & will not arise. Further it is stated that the case pending before State Consumer Disputes Redressal Forum will not debar the SARFAESI measures and that the Defendant Bank has never violated any code of fair lending practice and further the Defendant Bank has mentioned the date of NPA in the notices.

It is further submitted that the Defendant Bank served the Sale Notice to the Applicant and the same was affixed in the conspicuous part of the property and the same was published in two leading newspapers and that the Applicant can redeem the property before the sale date and it is not mandatory to mention time period for redemption in the notices. It is further submitted that there is no procedural irregularity on the part of the Defendant Bank in declaring the account as NPA & issuing Demand Notice & Possession Notice & Sale Notice and that the alleged procedural irregularity mentioned in the SARFAESI Application are not factually & legally correct and that the Defendant Bank has conducted the SARFAESI Proceedings only as per the provisions & procedures of the SARFAESI Act & Rules. The Bank has obtained Valuation Report from the approved valuer for the property and that the Defendant Bank has properly & rightly fixed the value of the property & reserve price. Hence, if the same are set-aside, the bank will be put to untold hardships & irreparable loss & injury and on the other hand no prejudice will be caused to the Applicants.

It is further submitted that the Applicant is a willful & Chronic Defaulter. He willfully, wantonly & deliberately not repaying the loan amount despite his sufficient means to repay the loan and that the main intention of the Applicant is only to drag on the proceedings without making any payment and to defeat & delay & defraud the valuable rights of the Defendant Bank. The only remedy available to the Applicant is to re-pay the entire dues to the Defendant Bank in order to stop the sale as per section 13(8) of the SARFAESI Act. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the Application with cost and thus render justice.

TYPED SET OF DOCUMENTS FILED BY THE DEFENDANT BANK

S.No.	Date	Particulars
1	31.08.18	Demand Notice with AD Cards
2	29.10.18	Objection raised by the Applicant
3	05.11.18	Reply to the objection
4	08.11.18	Possession Notice with AD Cards
5	10.11.18	Possession Notice Paper Publication in English daily
6	10.11.18	Possession Notice Paper Publication in Tamil Daily
7	19.12.18	Photography showing affixture of Possession Notice

8	27.12.18	Sale Notice with AD Cards
9	28.12.18	Sale Notice Paper Publication in Tamil daily
10	28.12.18	Sale Notice Paper Publication in English Daily
11	13.11.18	Valuation Report

ADDITIONAL TYPED SET FILED BY THE DEFENDANT BANK

S.No.	Date	Particulars
1	---	Statement of Accounts

2nd ADDITIONAL TYPED SET FILED BY THE DEFENDANT BANK

S.No.	Date	Particulars
1	31.08.18	Original Demand Notice with Original AD card
2	08.11.18	Possession Notice with Original AD Card
3	08.11.18	Possession Notice published in English Daily-Original
4	08.11.18	Possession Notice published in Tamil Daily-Original
5	27.12.18	Original Sale Notice
6	27.12.18	Sale Notice published in English daily -Original
7	27.12.18	Sale Notice Published in Tamil daily – Original
8	27.12.18	Original Photography showing affixture of Sale Notice

4. *ON THE BASIS OF ABOVE PLEADINGS, THE POINT WHICH ARISES FOR CONSIDERATION IS: -*

Whether the Applicant is entitled to get the reliefs as prayed for?

5. Having heard the parties and after going through the entire documents available on records, I find that the Applicant availed Housing Loan for a sum of Rs. 6,20,000/- (Rupees Six Lakhs Twenty Thousand only) from the Defendant Bank. It is the contention of the Applicant that he was very prompt in repaying the loan amount and he has paid the entire loan amount and nothing is pending there. Further, the Applicant has availed a sum of Rs. 6,20,000/- (Rupees Six Lakhs and Twenty Thousand only) on 11.03.2005. The total repayment works out Rs. 9,12,000/- and the Applicant has repaid Rs. 9,49,449/- and the last payment made by the Applicant was on 30.03.2015. The Applicant also claimed that no valid mortgage was created over the security.

I also find that the Defendant Bank in their Reply Statement stated that there is a valid mortgage created by the Applicant with the Defendant Bank over the property. However, the Bank has not filed any documentary evidence to show that the Schedule Mentioned Property has been mortgaged over the

security and failed to prove that the Impugned Property has originally been mortgaged. I also find that the Defendant Bank has not filed any evidence for having registered the security with the Central Registry u/s. 23 of the SARFAESI Act. Further, I find that the Defendant Bank has classified the Applicant's loan account as NPA on 26.07.2018 and issued a Demand Notice dated 31.08.2018 u/s. 13(2) of SARFAESI Act for a sum of Rs. 2,72,643/- (Rupees Two Lakhs Seventy-Two Thousand Six Hundred and Forty-Three only) to the Applicant. The Applicant also sent an objection to the Demand Notice dated 31.08.2018 vide his letter dated 29.10.2018 u/s. 13(3A) of SARFAESI Act. (Page nos. 20 to 22 of Applicant's main SA). The Bank has also replied to the Applicant's objection vide letter dated 05.11.2018 (Page nos. 7 & 8 of Bank's Typed set of papers).

Further, I find that thereafter, the Defendant Bank has issued a Possession Notice dated 08.11.2018 U/s. 13(4) of SARFAESI Act. I also find that the Defendant Bank has filed AD Card original for having delivered the Possession Notice dated 08.11.2018 to the Applicant as well as the Paper Publication of Possession Notice in both English and Tamil dailies on 10.11.2018 (Page nos. 6 to 11 of Bank's 2nd Additional Typed set of papers). However, the Bank has filed Photo showing affixture of Possession Notice at page no. 14 of Bank's Typed set of papers. I find that in that page, it is handwritten as Sale Notice, I also find that in the 2nd Additional typed set, at page no. 19, the Bank has filed original photo of affixture of Sale Notice and the xerox copy of the Original Sale Notice has been filed by the Defendant Bank at page no. 14 of Bank's typed set of papers in respect of affixture of Possession Notice dated 08.11.2018. It is not clear on which date & on which property, the Bank has affixed the Possession Notice dated 08.11.2018, since the Applicant raised the allegation that there is no valid mortgage over the property. The Defendant Bank has to rebut the allegation by producing substantive piece of evidence, while it is xerox copy of Sale Notice. Thus, Bank has not filed the photography of affixture of Possession Notice. The Rule 8(1) of the Security Interest (Enforcement) Rules 2002 clearly says:-

"8. Sale of immovable secured assets.

(1) Where the secured asset is an immovable property, the authorized officer shall take or cause to be taken possession, by delivering a possession notice prepared as nearly as possible in Appendix IV to these rules, to the borrower and by affixing the possession notice on the outer door or at such conspicuous place of the property."

Further, I find that thereafter, the Defendant Bank has issued the Impugned Sale Notice dated 27.12.2018. I also find that the Bank has filed the original Sale Notice dated 27.12.2018 (Page nos. 12 to 16 of Bank's 2nd Additional Typed set). Wherein, I find that in page no. 12, the Bank has filed the Covering letter of Sale Notice dated 27.12.2018 & at page no. 13, I find that the Bank has filed the incomplete copy of Sale Notice dated 27.12.2018. I also find that the Defendant Bank has not filed AD Cards for having delivered the Impugned Sale Notice dated 27.12.2018 to the Applicant. I also find that the Defendant Bank has filed original Paper Publication of Sale Notice made in both English and Tamil dailies (Page nos. 17 & 18 of Bank's 2nd Additional Typed set). However, the full content of the Sale Notice dated 27.12.2018 is not published in the Newspaper, the Bank has skipped sufficient details of the Impugned Sale Notice dated 27.12.2018 such as Address of the borrower, Time of auction, etc., while publishing the same in the Newspapers. I also find that the Bank has filed original photo showing the affixture of the Sale Notice dated 27.12.2018, however, the details of date & place of affixture of the Impugned Sale Notice is not known. Rather, it is handwritten as Sale Notice affixed on 27.12.2018. Thus, I find that the Defendant Bank has not followed the Rule 8(6) & (7) of the Security Interest (Enforcement) Rules 2002, which clearly says that,

"Rule 8(6) & (7) in the Security Interest (Enforcement) Rules, 2002:-

*(**6**) The authorized officer shall serve to the borrower a notice of thirty days for sale of the immovable secured assets, under sub-rule (5):*

*[Provided that if the sale of such secured asset is being effected by either inviting tenders from the public or by holding public auction, the secured creditor **shall** cause a public notice in the Form given in Appendix IV-A to be published in two leading newspapers including one in vernacular language having wide circulation in the locality.]"*

*"(7) [Every notice of sale **shall be** affixed on the conspicuous part of the immovable property and the authorised officer shall upload the detailed terms and conditions of the sale, on the web- site of the secured creditor, which shall include;*

(a) the description of the immovable property to be sold, including the details of the encumbrances known to the secured creditor;

(b) the secured debt for recovery of which the property is to be sold;

(c) reserve price of the immovable secured assets below which the property may not be sold;

(d) time and place of public auction or the time after which sale by any other mode shall be completed;

(e) deposit of earnest money as may be stipulated by the secured creditor;

(f)any other terms and conditions, which the authorized officer considers it necessary for a purchaser to know the nature and value of the property.]"

Further I find that the Defendant Bank has filed the Valuation Report dated 13.11.18 (page nos. 22 to 33 of Bank's Typed set of papers) in respect of the Impugned Property. However, though the Valuation Report 13.11.18 is filed by the Bank, this Valuation Report is not in consultation with the secured creditor since there is no signature of the Branch Manager and also no proof has been filed to this effect. Hence, the Defendant Bank has failed to prove that they have strictly adhered to the Rule 8 (5) of Security Interest (Enforcement) Rules 2002, which clearly says:-

*"(5) Before effecting sale of the immovable property referred to in sub-rule (1) of rule 9, the authorized officer shall obtain valuation of the property from an approved valuer and **in consultation with the secured creditor**, fix the reserve price of the property and may sell the whole or any part of such immovable secured asset by any of the methods provided therein".*

I also find that during the pendency of the case, this Tribunal has granted a conditional stay order for a sum of Rs. 85,000/- to the Applicant which was also complied by the Applicant and thereby proved his bonafide. The Applicant has no doubt being a defaulter is liable to pay the loan amount to the Defendant Bank and the Bank has been given ample power to recover the outstanding loan amount from the borrower by invoking the SARFAESI Act and without the intervention of any Court. But it shall not allow the Bank to sell the property of the Applicant without following the due process of law

strictly. In view of the above facts and circumstances of the case, I find that the Applicant has been able to prove the case in his favour.

In the result,

1. SA No. 71 of 2019 is allowed. No Costs. The Impugned Sale Notice dated 27.12.2018 issued under Rule 8(6) of Security Interest Enforcement Rules, 2002 scheduled to be held on 30.01.2019 by the Defendant Bank is hereby set aside and the Defendant Bank is directed not to include the expenditures incurred in issuance of the Impugned Sale Notice dated 27.12.2018 in the loan account of the Applicant.

2. The Defendant Bank is at liberty to initiate fresh action against the Applicant for recovery of loan amount following the SARFAESI Rules & Act strictly. Consequently, all pending IAs (if any) are also disposed of. No costs.

Dictated to PA (DK), taken down, transcribed, typed by her, corrected and pronounced by me in the Open Court in this the 13th April 2026.

sd/-

(SEEMA SINHA)
PRESIDING OFFICER

Dictated & corrected by me
sd/-
(SEEMA SINHA)
PRESIDING OFFICER

Uploaded on 22.04.2026

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