Fair Order

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI

DATED THIS 17th DAY OF APRIL, 2026

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

SA No. 131/2019

1. M/s. SBM Starch,
Rep. by its Partners,
Mr. C.P. Subramaniam,
3/414, Nadu Street,
Koppampatti Post,
Thuraiyur, Trichy – 621 012.

2. Mr. C.P. Subramaniam,
3/414, Nadu Street,
Koppampatti Post,
Thuraiyur, Trichy – 621 012.

3. Mrs. S. Parvathy,
3/414, Nadu Street,
Koppampatti Post,
Thuraiyur, Trichy – 621 012.

4. Mr. C. Palaniappan,
3/414, Nadu Street,
Koppampatti Post,
Thuraiyur, Trichy – 621 012. --- Applicants

-Vs-

The Authorized Officer,
Indian Bank,
Salem Main Branch,
101A, Arunachalam Street,
Salem – 636 001. --- Defendant Bank

Appearance of Advocates:
M/s. ARM. Ramesh ***---- Counsel for the Applicants***
Mr. S. Rengasamy ***---- Counsel for the Defendant Bank***

This SARFAESI Application was heard in the presence of Counsels for the Applicants and the Defendant Bank and fixed for passing 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 Applicants praying that this Hon'ble Tribunal may call for records pertaining to the Possession Notice dated 24.01.2019 under the SARFAESI Act of the Defendant and quash the same and pass such Orders.

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

The Counsel for the Applicants submitted that the 1st Applicant is a partnership firm in the name and style of M/s. SBM Starch Industries and running business at Trichy. Initially, the 1st Applicant has availed Several credit facilities from the Defendant Bank. The Applicants further submitted that the Defendant Bank virtually coaxed them to avail Housing Loan on 08.03.2017 for a sum of Rs. 1,58,00,000/- and OCC facility of Rs. 73,00,000/- totaling for a sum of Rs. 2,31,00,000/- more to thrust a problematic non saleable house property that was subject matter of mortgage to the Defendant Bank in a sensitive NPA account of a third party and in the process, the Applicants were burdened with additional liability of Rs. 2,31,00,000/- to the Defendant Bank. Further, it is stated that the said house property is subject matter of litigation in civil suits.

Further, it is stated that on 09.10.2017, a major fire accident occurred in the factory premises that struck another major blow to the Applicants. Yet, the Applicants somehow managed to continue to stick to the schedule in debt servicing and only in September 2018, the Bank classified the loan account as NPA. The Applicant requested for restructuring the loan account as per the prudential Norms of RBI guidelines and for additional financing. However, the Defendant Bank issued Demand Notice dated 07.11.2018 u/s. 13(2) of the

SARFAESI Act received by the Applicants on 22.11.2018. The Applicants sent an objection vide letter dated 08.01.2018 u/s. 13(3A) of SARFAESI Act. Above all the representation and reply u/s.13(3A) of the SARFAESI Act has highlighted and underlined that the properties set out in the Demand Notice are agricultural lands exempted under section 31(i) of the Act. The reply is more specific that 21.65 acres of land in specific survey numbers in Koppampatti Village are purely agricultural lands, where agricultural activities are consistently and actively going on with cultivation of onion, corn, fodder crops, caster, groundnuts, coconut trees and other crops.

It is further submitted that in the light of the overwhelming evidence as setout above, it is clear that the Demand Notice and the Possession Notice cannot lie u/s. 31(i) of the SARFAESI Act. In so far as they relate to Item Nos. 1 to 5 of the lands listed in the schedule thereto, except in relation to small portion occupied by factory buildings that lie predominantly on Item No. 2 land. The Applicants have no objection in proceeding only against the house property listed as 6th Item of the schedule and of course against factory building but only after distinctly and separately surveying and describing the factory building premises with boundaries and dimensions. The Demand Notice and the Possession Notice with regard to Items No. 1 to 5 of properties of the schedule hereunder cannot therefore lie and have to be set aside as unsustainable.

It is further submitted that to the objection of the Applicants u/s. 13(3A) of the SARFAESI Act sent on 08.01.2019, the Defendant Bank has sent its reply dated 18.01.2019 where there is no whisper of denial to the submissions of the Applicants that the Schedule properties listed in the Demand Notice (Except Item No. 6) are agricultural lands. In other words, the Defendant Bank admits the fact that except item no. 6 of the schedule hereunder all other properties are agricultural lands coming u/s. 31(i) of the SARFAESI Act. Inspite of such admission the Defendant Bank has chosen to send Possession Notice in relation to all the properties. Hence this Application U/s. 17(1) of the SARFAESI Application is filed on the following grounds,

Main Grounds:-

1. The Defendant Bank has wrongly declared the Applicant's account as NPA and the liability set out in the Demand and Possession Notices are overstated and incorrect.

2. Except Item no. 6 of the schedule to the Demand Notice and Possession Notice all other items are agricultural lands and accordingly the Demand Notice and Possession Notice are in contravention of Sec. 31(i) of the SARFAESI Act.

3. The Applicants have clearly invoked section 31(i) of the SARFAESI Act in their objection u/s. 13(3A) of the SARFAESI Act and the Defendant Bank has not denied the same in their reply notice dated 18.01.2019 thereby admitting Application of sec. 31(i) of the SARFAESI Act in relation to the properties in item nos. 1 to 5 of the schedule.

4. The Defendant Bank has failed to serve the Possession Notice to the Applicants u/s. 8(2) of the Security Interest Enforcement Rules, 2002.

5. The Defendant Bank has issued Possession Notice again listing the Agricultural land which is exempted u/s. 31(i) of the said act and accordingly the Possession Notice is perse invalid.

SCHEDULE OF THE IMMOVABLE PROPERTY

Item No. 1 owned by C.B. Subramani

At Land and sago factory building situated in SF No. 24/1B, 2,3,4 to the extent of 1.11 ½ acres in Thuraiyur main road, Koppampatto (Village) Thuraiyur Taluk, Trichy – 620 012 Trichy District.

Bounded by S.No. 24/1B extent: 0.19 Acres

North : S.No. 24/1A (p) & C, Palaniappan property

South : S.No. 24/5 property

East : S.No. 24/4 property

West : S.No. 24/1A property

Item No. 2 owned by C.B. Subramani

At Land and sago factory building situated in SF No. 24/A, to the extent of 1.09 acres in Thuraiyur main road, Koppampatto (Village) Thuraiyur Taluk, Trichy – 620 012 Trichy District.

Bounded by

North : SC. Palaniappan property
South : Natarajan property
East : C.P.Subramani property
West : C. Palaniappan property

Item No. 3 owned by C.B. Subramani

At Land and sago factory building situated in SF No. 18/3B, 29/2A, 3A, 31/2, 4 to the extent of 7.31 acres in Thuraiyur main road, Koppampatto (Village) Thuraiyur Taluk, Trichy – 620 012 Trichy District.
Bounded by
As per document: Doc.No. 1849/2013
S.No. 18/3B, extent 1.21 Acre
North : Balasubramanian property
South : S.No. 31/4, 2 property
East : Balasubramanian property
West : Vaari

S.No. 29/2A, extent: 2.09 acre
North : S.No. 29/15 Property & S.No. 29/1 Palaniappan Property
South : Natarajan Property
East : S.No. 29/3A Property & Natarajan Property
West : S.No. 29/15 Property & S.No. 31/5 Palaniappan Property

S.No. 29/3A, extent: 1.85 acre
North : S.No. 29/1 Palaniappan Property
South : Natarajan Property
East : S.No. 29/2 Property
West : 31/4 extent 0.47 acres

Item No. 4: owned by C.B. Subramani

At Land and situated in SF No. 31/3, 37/5, 38/1B, 1C, 4 to the extent of 9.48 acres in Thuraiyur main Road, Koppampatto (Village), Thuraiyur Taluk, Trichy – 620 012, Trichy District.
Bounded by
East : Nataraj & P. Sellammal Property
West : K Ramasamy, V. Ramasamy & others property

North : K.C. Palaniappan & P. Sellammal Property

South : Nagaraj Property

Item No. 5: Owned by C. Palaniappan

At Land and sago factory building situated in Old S.No. 435, New S.No. 31/5 (part) & 29/1 4(p), D.No. 3/419, 4/414-F, 3/414, 414-A to D, 414-F, 419-A, H to the extent of 6.58 ¾ acres in Thuraiyur main Road, Koppampatto (Village), Thuraiyur Taluk, Trichy – 620 012. Trichy District.

Bounded by : S.F.No. 31/5

Item No. 1 extent 1.65 acres

East : K. Balasubramania Mudaliyar Property

West : Temple land

North : K. Balasubramania Mudaliyar Property

South : Temple land

Item No. 2 Extent 1.00 Acre

East : K. Balasubramania Mudaliyar Property

West : N. Goudiappa Gounder & Sankara Mudaliyar Property

North : K. Kumarasamy Mudaliar Property

South : C. Palaniappa Gounder

Doc. No. 97/1979, S.F.No. 29/1-

Item No. 1 extent 1.53 ¾ acre

	S.F.No. 31/5 Item No. II extent 0.66 acre	S.F.No. 29/4 Item No. II extent 0.03 ½ acre
East	P. Chellammal property	Remaining land S.F.No. 29/4
West	C. Palaniappan Property	S.F.No. 29 (1 & 4)
North	S.F.No. 18/4 Property	Remaining land S.F.No. 29/4
South	P. Chellammal Property	Attur Main Road

S.F.No. 29/4 (p) Item No. 1 Extent 0.16 acre

East : Mangal Pattian @ Chellamuthu Raja Property

West : Arumuga Kangani Property

North : Item -VI Property

South : Item – III Property

Item No. II extent 0.06 ½ acre

East : Attur Road

West : Mangal Pattian @ Chellamuthu Raja Property

North : Item -VI Property

South : Item -I Property

Item No. III extent 0.73 acre

East : Attur Road

West : Arumuga Kangani Property

North : Item -VII & VIII Properties

South : Item -IV & V and Mangal Pattian @ Chellamuthu Raja Property

Item No. IV extent 0.42 acre

East : Item – VIII property & Well

West : S.F.No. 29/3 property

North : Palaniappa Gounder Property

South : Arumuga Kangani Property

Item No. V extent 0.27 acre

East : Attur Road

West : Item-VII property

North : Palaniappa Gounder Property & Well

South : Item - VI Property

Item No. VI extent 0.07 acre

East : Attur Road

West : Item-VII property

North : S.F.No. 29/14 Property

South : VII & VIII Properties

6. Owned by Mr. C.P. Subramani:

Land & Residential building in Salem Registration District, Attur Sub Registration District, Attur Taluk, Attur Town, S.No. 479/2, Ward D, Block No. 40, T.S.No. 20/2, Ward No. 26, Gandhi Nagar, D.O.72, New D.Nos. 159/72, 163/72D, 161/72D, 161/72B, 165/72E, & 167/72E measuring 1st item East – West 34 ½ feet, North – South 34 ¾ feet, total 1199 square feet, 2nd Item East-West 40 ½ feet,

North-South 23 ½ feet, total 951 ¾ square feet, 3rd item (Pathway) East -West 4½ feet, North-South 100 ¾ feet, total 453 ¼ square feet, 4th Item East-West 21 feet, North -South 21 ½ feet, total 451 ½ square feet, 5th Item East-West 25 feet, North-South 21 ¾ feet, total extent 543 ¾ square feet.

In total extent of the above said five items 3599 ¼ square feet, including RCC terraced buildings constructed thereon measuring from portion ground floor 1935 square feet, first floor 1935 square feet and back portion ground floor 550 square feet, first floor 550 square feet, electrified with IA- Service connection nos. 551-003-753, 551-003-755, 551-003-757, including bore well, water tap connection nos. 95,3466,3772 with all mamool pathway and other easementary right attached thereon.

Bounded by:

South of : Property of Ramakrishnan & CSI Compound

North of : 60 feet Gandhi Nagar Road

East of : Property & Pathway of Ramakrishnan

West of : Property of Natesan Pillai

The Applicants have submitted the following List of documents in support of their claim in the SA, which are as follows:

S.No.	Date	Documents Particulars
1.	07.11.2018	Demand Notice
2.	08.01.2019	Reply Notice U/s. 13(3A) of the SARFAESI Act given by the Applicants
3.	18.01.2019	Bank's reply to the Applicants letter dated 08.01.2019
4.	29.10.2018	Application for restructuring Applicants' loan account to the Defendant Bank
5.	10.12.2018	Bank's reply
6.		Series of Village 10(1) accounts extract in relation to lands under patta nos. 457,491, 429, 106, 490
7.	----	Series of Adangal
8.	----	Village A Register
9.	----	Electricity tariff receipts
10.	03.12.2018	Kist Receipts
11.		Valuation Reports
12	31.05.2015	Title Scrutiny report
13		Photographs showing cultivation
14	21.09.2019	Certificate issued by the VAO
15	24.01.2019	Impugned Possession Notice

The Applicants have filed one Additional Typeset of papers which are as follows:

SI.No	Date	Documents Particulars
1.	----	Photographs showing cultivation

3. On the other hand, the Counsel for the Defendant Bank appeared before this Tribunal and filed Vakalat and Caveat Petition No. 90/2019, in which he has filed Demand Notice & Possession Notice and Reply Statement wherein it is submitted that the Applicant No. 1 is Partnership Firm. It was enjoying credit facilities with the Defendant Bank from 10.11.2010 onwards. It is mentioned that the Defendant Bank has sanctioned some credit facilities and all the sanction letters are produced therewith.

It is further submitted that the 1st Defendant availed all the credit facilities to the full extent. After availing the loan, the 1st Applicant was irregular in the matter of operation of the loan account and ultimately the account of the 1st Applicant was classified as NPA on 30.09.2018. This Defendant further submitted that before issuing Demand Notice U/s. 13(2) of SARFAESI Act, several times the Defendant Bank officials advised the Applicants to regularize or close the loan account. But they have failed to do so. Hence, the Defendant Bank classified the Applicants' loan account as NPA and issued Demand Notice U/s. 13(2) of SARFAESI Act on 07.11.2018. The Demand Notice was duly served on the Applicants and they received the notice on 22.11.2018. Further, it is stated that after receipt of the Demand Notice, the Applicants have sent reply on 08.01.2019. On receipt of the same, the Defendant Bank has clearly informed that the 1st Applicant, its partners/guarantors that if the arrears in the loan account were paid to the Defendant Bank, then the Defendant Bank will consider the request of the 1st Applicant for restructure. But they failed to pay the arrears and regularize the account. Hence, the Defendant Bank proceeded further under SARFAESI Act and took possession of the property on 24.01.2019. The publication was duly published in Tamil and English papers as per provisions of law.

It is further submitted that the averments made in Para No. 5 of the grounds of appeal is no way connected to the present appeal. It is the duty of the Applicant to prove that due to accident occurred on 09.10.2017 is the main cause classified as NPA. No documentary evidence is produced in the typeset of the Applicants. Further, the insurance amount was received from the insurance company and paid to the 1st Applicant. Hence, the alleged plea is a false statement. Further, the Defendant Bank has properly replied for the reply sent u/s. 13(3A) of the SARFAESI Act as early as on 18.01.2019. The documents submitted by the Applicants i.e. Adangal has clearly stated that the property is a mill property, landed property. Hence, the plea of 31(i) under SARFAESI Act will not be applicable to the present case. Further, the amount advanced to the Applicants is also for construction of factory building. The properties offered to the Defendant Bank are residential cum land and building. Hence, invocation of SARFAESI Act is proper and legal.

It is further submitted that the classification of the loan account of the Applicant by the Defendant Bank as NPA is correct. The account of the Applicant did not serve interest. The Defendant Bank is the custodian of the public money. After classification of the account of the Applicants as NPA by the Defendant Bank, ample opportunity was given to the Applicants to pay and adjust his liability but he failed. Hence, the Defendant Bank initiated action under SARFAESI Act. Further it is stated that issuance of Demand Notice as well as the Possession Notice by the Defendant Bank is proper, legal and valid action. Huge amounts are found due from the Applicants. Therefore, it is prayed that this Hon'ble Tribunal be pleased to dismiss the SARFAESI Application with costs and thus render justice.

No Typed set of papers are filed by the Defendant Bank

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

Whether the Applicants are 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 Applicants availed some credit facilities from the Defendant Bank. The Applicants were prompt in repayment of loan amount. however, due to a major fire accident occurred in the factory premises on 09.10.2017, the Applicants were unable to repay the loan amount, and hence, the Defendant Bank has classified the Applicants' loan account as NPA since 30.09.2018

6. Thereafter, the Defendant Bank has issued Demand Notice dated 07.11.2018 U/s. 13(2) of SARFAESI Act for a sum of Rs. 12,52,38,098.87p (Rupees Twelve Crore Fifty-Two Lakhs Thirty Eight Thousand and Ninety Eight and Paise Eighty Seven only) to the Applicants in respect of Schedule Mentioned Properties. I also find that the Applicants have sent Reply/Representation dated 08.01.2019 u/s. 13(3A) of SARFAESI Act against the Demand Notice dated 07.11.2018, which was also replied by the Defendant Bank vide their letter dated 18.01.2019 (Page no. 49A of Applicants main SA). The Applicants also sent a request for restructuring of Applicants' loan accounts to the Defendant Bank vide letter dated 29.10.2018. The Bank also sent a reply to the Applicants' request vide letter dated 10.12.2018, stating that the request has been appraised to the higher authority.

7. Thereafter, the Defendant Bank has issued the Impugned Possession Notice dated 24.01.2019 U/s. 13(4) of SARFAESI Act to the Applicants. The Applicants also contended that the Possession Notice was not personally delivered on the Applicants. I also verified the documents filed by the Defendant Bank and I find that the Defendant Bank has filed only a copy of Possession Notice in the Caveat Petition. The Defendant Bank has not filed any typed set of papers to prove that they have delivered the Impugned Possession Notice dated 24.01.2019 to the Applicants. I also find that the Defendant Bank has not filed copies of Paper Publication of Possession Notice published in newspapers in English & Tamil languages. Further, the Defendant Bank has not filed the photos showing the affixture of Possession Notice on the conspicuous part of the properties. Since the Defendant Bank

has not filed the sufficient evidences to prove that they have strictly followed the procedures while issuing Possession Notice to the Applicants, it amounts not to following the Rules prescribed under Rule 8(1) & (2) of the Security Interest (Enforcement) Rules 2002, which 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.*
>
> *(2) The possession notice as referred to in sub-rule (1) shall also be published, as soon as possible but in any case not later than seven day from the date of taking possession, in two **leading newspaper, one in vernacular language having sufficient circulation in that locality**, by the authorized officer."*

8. Further, the Applicants claimed that the Schedule Mentioned Properties are Agricultural properties (Item Nos. 1 to 5 of the schedule of the Possession Notice), which is exempted U/s. 31(i) of the SARFAESI Act. However, the Defendant Bank has denied the averments made by the Applicants. I find that the Applicants have filed Adangal (Page nos. 74 to 90 of main SA), Kist receipts (Page nos. 114 to 115 of main SA), VAO Certificate (Page nos. 173 to 174 of main SA), Electricity Tariff receipts (Page nos. 111 to 113 of main SA), Series of Village 10(1) accounts extract in relation to lands under Patta nos. 457, 491, 429, 106 & 490 (Page nos. 69 to 73 of main SA) and Village A Register (Page nos. 91 to 110 of main SA) towards Item Nos. 1 to 5 of Schedule Mentioned Properties, which clearly prove that the Schedule Mentioned Properties are Punjai or agricultural properties.

9. The Applicants have no doubt being defaulters are 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 borrowers by invoking the SARFAESI Act and without the intervention of any Court. But it shall not allow the Bank to take the possession of the property of the Applicants without following the due process of law strictly. In view of the above facts and circumstances of the case, I find that the Applicants have been able to prove the case in their favour.

In the result,

1. **SA No. 131/2019** is allowed. No costs. Accordingly, the Possession Notice dated 24.01.2019 issued u/s. 13(4) of the SARFAESI Act 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 Possession Notice dated 24.01.2019 in the loan account of the Applicants.

2. The Defendant Bank is at liberty to initiate fresh action against the Applicants 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 MTS (KK), taken down, transcribed, typed by her, corrected and pronounced by me in the Open Court in this the 17th April 2026.

Sd/-
(SEEMA SINHA)
PRESIDING OFFICER

Uploaded on 04.05.2026