IN THE DEBTS RECOVERY TRIBUNAL – II
AT HYDERABAD

DATED THIS THE 06TH DAY OF MAY, 2026

PRESENT: SH. RAMESHWAR KOTHE, B.Com., L.LB. (Hons.), M.A.
PRESIDING OFFICER

SECURITISATION APPLICATION No.411 OF 2025
(Along with IA No.3514/2025)

1. Mr. Gopu Bala Reddy
S/o Late Inna Reddy, aged about 60 years
Occ;Business, R/o Plot No.838
Vivekananda Nagar Colony, Kukatpally
Hyderabad

2. Mrs.G.V. Mary W/o Mr.Gopu Bala Reddy
Aged about 50 years, Occ:Business
R/o Plot No.17, Free Zone Villa Greens
Gandipet, CBIT (Post)
Hyderabad 500072
Both the applicants are represented by their
Power of Attorney Holder, Mr.B. Srinivas

... Applicants

Versus

1. Union Bank of India
Stressed Assets Management Branch
Hyderabad, 3rd Floor, Andhra Bank Building
Sultan Bazar, Koti, Hyderabad 500001
Rep by its Authorized Officer

2. BRG Energy Limited (in liquidation)
Represented by Official Liquidator
1st Floor, Corporate Bhavan, Bandlaguda
Nagole, Hyderabad 500068

....*Respondents.*

Ld. Counsel for the Applicant : *Mr. G. Dinesh Kumar*
Ld. Counsel for Respondent No.1 : *M/s Pearl Law Associates*
Ld. Counsel Respondent No.2 : *Mr.J. Srinadh Reddy*
Ld. Counsel Respondent No.3 : *Mr.G.V. Krishnam Raju*

06.05.26

ORDER

1. The present Securitisation Application is filed under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act"), assailing the measures taken by the 1st Respondent Bank under Section 13(4) of the Act, including the demand notice dated 26.03.2024, possession notice dated 17.03.2025 and the sale notice dated 22.08.2025. To declare that the limitation to enforce the mortgage in respect of application schedule property expired on 31.12.2023 and consequently direct the 1st respondent bank to hand over the title deeds to the applicants.

2. The case of the Applicants, in brief, is that they stood as guarantors for the credit facilities availed by M/s BRG Energy Limited, the 2nd Respondent herein. The loan account was classified as Non-Performing Asset (NPA) on 31.12.2011. It is stated that the Respondent Bank had issued a demand notice under Section 13(2) of the SARFAESI Act in the year 2012, but did not proceed further in accordance with law. The borrower company was ordered to be wound up by the Hon'ble High Court in the year 2018 and the Official Liquidator was appointed, who took charge of the assets of the company. Thereafter, the Respondent Bank issued a fresh demand notice dated 26.03.2024 after a long gap, followed by possession notice dated 17.03.2025 and sale notice dated 22.08.2025. The Applicants have challenged the said action primarily on the grounds of limitation, non-service of notice on the Official Liquidator and violation of statutory provisions of the SARFAESI Act.

06.05.26

3. The 1st Respondent Bank has filed reply statement contending that the Applicants, being guarantors, are jointly and severally liable for repayment of the dues. The Bank has followed due procedure as contemplated under the SARFAESI Act and the Rules framed thereunder. It is the specific case of the Respondent Bank that a Recovery Certificate has already been obtained from this Tribunal and therefore the limitation stands extended and the present proceedings are within time. The Respondent Bank has also contended that necessary notices were issued and published and there is no illegality in the measures taken.

4. The 2nd respondent (Official Liquidator) filed report with factual events that by virtue of order dated 21.08.2018 made in C.P. Nos.170/2012, 135/2013 & 181/2014 of Hon'ble High Court at Hyderabad directing to wind up M/s BRG Energy Limited, the Official Liquidator deputed officials for taking possession of assets who reported that in the registered office Institute for Communication Skills & Personality Development was running, possession of the factory land was taken by Union Bank of India by virtue of decree in OA No.302/2017 and Branch Office of the company situated in Mahaboob Nagar District was purchased by M/s Trinity Cleantech Pvt. Ltd. vide sale deed dated 09.02.2016 and the Company Application No.46/2019 is pending before Hon'ble High Court. Hence none of the above assets came into possession of the OL. The petitioner approached Hon'ble High Court by filing CA No.70/2025 seeking direction to Union Bank of India not to proceed against sale of the assets of the company (in liquidation) without leave of the Hon'ble High Court and the CA was allowed by making it clear that in the event 2nd respondent intends to proceed with the liquidation process, it is at liberty to do so by involving the Official Liquidator in

06.05.26

valuation and sale as observed by a Coordinate Bench in its order dated 01.08.2019 passed in CA No.624/2018 in Company Petition Nos.39/2016 and 60/2013. The Appeal in OSA No.1/2025 preferred by the bank was dismissed.

5. The 3rd respondent company-auction purchaser represented by its Managing Director also filed reply affidavit, *inter-alia*, asserting its position as *bona fide* auction purchaser of the application schedule property in the e-auction held on 26.09.2025 conducted by the 1st respondent bank pursuant to e-auction sale notice dated 22.08.2025. 3rd respondent paid the entire sale consideration, sale certificate has been issued and has been put into actual possession of the application schedule property. 3rd respondent cannot suffer the litigation due to internal disputes between the 1st respondent bank and the applicants. After sale proceedings have been completed and auction is confirmed and sale certificate issued, the purchaser obtains absolute rights and borrower's right of redemption does not last any more. Reliance placed on judgements in ***Celir LLP vs. Sumati Prasad Bafna & others (2024), Valji Khimji & Co vs. Official Liquidator 7 Ors (2008) and V.S. Palanivel vs. P. Sriram (2024)***.

6. Heard learned counsel for the applicants and learned counsel for the 1st respondent bank. Perused the written arguments filed for respondents 1, 2 and 3 along with the material documents placed on record.

7. Learned counsel for the applicants, at the very outset contended that the a notice to the borrower under SARFAESI Act under Sec.13(2) is mandatory as a principle borrower the

06.05.26

respondent No.1 bank is obligated under law to issue Demand notice to the borrower. It is further claimed that unless a Demand notice is issued to the borrower and there is a default on the part of the borrower the liability of the guarantor does not arise at all. Therefore, the issuance of the Demand notice is mandatory on the principle borrower in the present case the borrower is representing through official liquidator by virtue of the orders of the Hon'ble High Court therefore all further proceedings are vitiated under law. The learned counsel relied upon ***Mardia Chemicals Ltd. v. Union of India Transcore v. Union of India*** is also relied upon.

8. It is further contended that the respondent bank failed to follow SARFAESI Act, as it is failed to publish the Possession notice dated 17.3.2025 in two leading news papers one in vernacular language, failed to affix possession notice at the conspicuous place in compliance of Rule 8(1) and (2) of the Security Interest Rules, 2002. The publication of Possession notice dated17.3.2025 in English had in The Indian Mail News paper which News paper have no circulation in Hyderabad in support of this he filed TOP 10 news papers in Hyderabad where is there no name of "The Indian Mail". The respondent bank not filed photographs of affixture and not conducted any panchanama of affixture.

9. It is also contended that the respondent bank failed to publish auction notice dated 22.08.2025 in two leading news papers one in vernacular language and also failed to affix the auction notice at the conspicuous place of the schedule property and not conducted panchanama to that affect. The respondent No.1 in collusion with the proposed auction purchaser sold the schedule property less than the market price and the respondent No.3 is a sole bidder is a

6.05.26

clinching evidence for the same. The respondent bank not conducted valuation of the schedule property with their approved valuer, further, the value of the property is more than Rs.1.00 crore as per the guidelines two valuations to be obtained from the approved valuer and the respondent bank not filed any proof to that affect and thereby prayed to set aside the auction notice dated22.08.2025 and consequential sale in favour of Respondent NO.3 regarding schedule property.

10. Per contra, learned counsel for 1st Respondent in reiteration of the contents of the reply would submit that the applicants clearly admitted service of Demand notice, possession notice and auction notice and therefore the respondent need not submit any proof of notice against them, with regard to notice against Respondent No.2, the properties are pertaining to guarantors and therefore no notice is required against borrower company. As per Sec.128 of Indian Contract Act, the liability of guarantors is co-extensive with that of the principal borrower and the proceedings against guarantor are independent in nature as per the Indian contract act and hence no notice is required and they followed due process of law. The order in OSA 1/2026 is regarding property of Respondent No.2 company and the same is not applicable to the applicants. With regard to various grounds raised in respect of the procedural aspects under SARFAESI Act, there are no pleadings to that effect on behalf of the applicants and therefore they are not entitled to raise those grounds and prayed to dismiss the SA duly confirming the sale conducted in favor of the Respondent No.3.

11. The Respondent No.2 filed its written arguments reiterating the report filed by it and further stated that the 1st respondent bank

06.02.26

failed to serve any notices u/s 13(2) and 13(4) of the Act, 2002 upon the borrower (R-2) regarding subject properties. Accordingly sought to pass appropriate orders.

12. The Respondent No.3 stated that the applicants are chronic defaulters and not paid the dues to the Respondent No.1 bank, and the respondent No.1 conducted auction regarding schedule property and they participated by depositing the EMD, and paid the Bid amount within the time as per the terms of the auction and the respondent No.1 delivered the possession and they are in possession of the property. Accordingly prayed to dismiss the SA. They relied upon the Hon'ble Supreme Court judgment that a confirmed sale cannot be set aside lightly.

13. Now, the points that arise for consideration are :-

(i) *Whether the action of the Respondent No.1 proceeding under SARFAESI Act without issuing notice to the borrower company represented through the Official Liquidator is justified under law?*

(ii) *Whether the 1st Respondent followed due procedure under Rule 8(1) and (2) of the Rules of 2002 in respect of possession notice dated 17.3.2025?*

(iii) *Whether the 1stRespondent followed due procedure under Rule 8(7) of the Rules 2002 in respect of auction notice dated22.08.2025?*

(iv) *Whether the applicants are entitled to take out flaws of the Respondent No.1 in following the procedure under SARFAESI Act having admitted receipt of notices?*

(v) *Whether the applicant is entitled for redelivery of the application schedule property?*

06.05.26

(vi) Whether the claim of the Respondent No.1 is within period of limitation against applicants to initiate SARFAESI Act?

(vii) To What relief?

Point No.(i):-

14. The Applicants are the guarantors and mortgagors of the schedule property. The Respondent No.2 is the borrower company which underwent liquidation by virtue of orders of the Hon'ble High Court and at present it is represented by the Official Liquidator of High Court of Telangana. The contention of the applicants is that they being guarantors and the respondent No.2 being the principal borrower, a Demand notice ought to be served on the principal borrower demanding the amount and then only the Respondent No.1 shall initiate further proceedings against the application schedule properties. It is also the contention of the applicants that the respondent No.1 colluded with the respondent No.3 and failed to follow the procedure in conducting the auction. These issues pertaining to the procedure followed by the 1st respondent are being examined as hereunder.

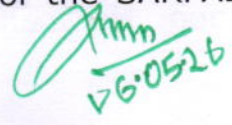
15. The foremost contention of the applicants are that the respondent No.1 shall serve Demand Notice on the borrower company and then only it shall proceed further against the schedule properties. As per the Sec.13(2) of SARFAESI Act and Demand Notice is mandatory to proceed under the SARFAESI Act. In the present case, admittedly no notices are served against the Respondent No.2 by the Respondent No.1 Bank. A Demand Notice is mandatory on the Respondent No.2 company, when it is represented by the official liquidator of the Hon'ble High Court, the

06.05.26

Respondent No.1 is obligated under Sec.13(2) of SARFAESI Act to serve a Demand Notice but Respondent No.1 failed to serve the same. The Respondent No.1 under law having a right to proceed independently against the guarantors, however, it shall not be without issuing Demand notice on the borrower. As the Respondent No.1 failed to serve Demand Notice 26.3.2024 as referred in the possession notice dated 17.3.2025 and no proof submitted to that effect, I am constrained to find that the Respondent No.1 failed to serve Demand notice dated 26.3.2024 and all subsequent notices on the borrower company represented by the Official Liquidator i.e. Respondent No.2 . Hence all the measures initiated by the Respondent No.1 bank against the application schedule properties would become *void ab initio*.

Point No.(ii):-

16. The next contention of the applicant is that the respondent No.1 failed to follow the due procedure of Rule 8(1) and (2) while issuing the possession notice dated17.3.2025. The respondent NO.1 served possession notice dated17.3.2025 on the applicants which is duly admitted by the applicants, however, the same are not published two leading news papers one in vernacular language particularly the English News paper where is it is published in the "Indian Mail" is concerned as per the report filed by the applicants it is not in Top ten News papers in Hyderabad, the property is within the Hyderabad and value of the property is more than Rs.5.00 Crores. When Statue mandates publication in leading Newspapers it was published not in compliance of the same. Further, the respondent not produced proof of affixture of possession notice dated 17.3.2025 in compliance of Rule 8(1) of the SARFAESI Act.



Hence the Respondent NO.1 failed to follow Rule 8(1) and (2) while issuing Possession notice dated 17.3.2025.

Point No.(iii):-

17. The Respondent No.1 has not filed valuation reports pertaining to the schedule properties to substantiate that they have undertaken valuation before issuing auction notice dated 22.08.2025 and fixing the reserve price of the schedule property.

18. The Respondent No.1 also failed to file proof of affixture pertaining to the auction notice dated 22.08.2025 in compliance of Rule 8(7) of the SARFAESI Act whereas the said provision contains the word "shall" for affixture of the notice, which is meant to encourage the general public to know and participate in the auction to get more price to the property and more participants can join in the auction. The Respondent No.1 has not filed publication of auction notice dated 22.08.2025. Hence auction notice dated 22.08.2025 is without following Rule 8(7) of the SARFAESI Act and hence the same is liable to be set aside along with consequential auction proceedings in favour of Respondent No.3.

Point No.(iv):

19. The contention of the Respondent NO.1 is that the applicants admitted receipt of all notices under SARFESI Act, and therefore is not entitled to question the procedure followed by the respondent No.1, further, there is no pleading in the application about the procedure and therefore cannot be questioned later on. However, it is observed that the applicants categorically pleaded in the IA that there is a clear collusion between the Respondent No.1 and Respondent No.3 and they have not followed the procedure and

06.05.26

completed the auction. In my considered view, the collusion cannot be ruled out especially in view of the action of the Respondent NO.1 in not issuing any notice to the borrower when it is represented through Official Liquidator and not following Rules of the SARFAESI Act and taking out publication in less-circulated newspapers. Further, it is settled law that legal contentions can be raised at the time of arguments. Hence the applicants are entitled to question the illegalities of the Respondent NO.1.

Point No.(V):

20. The applicants filed a separate IA No.3514/2025 seeking re-delivery of properties, wherein counters filed by the Respondent No.1 Bank and Respondent NO.3 auction purchaser. The applicants pointed out several irregularities on behalf the Respondent NO.1 and 3 and also collusion between the Respondent No.1 and 3. The applicants also filed a FIR registered against the Respondent No.1 and 3, but not filed latest position of the said case. However, the respondent NO.1 failed to file the details as to how the physical possession has been taken and the procedure adopted under Sec.14 of SARFAESI Act etc.

21. However, since the Demand Notice, Possession Notice and Sale Notices are observed to be illegal as the same were issued without following the provisions of SARFAESI Act.

Point No.(Vi):

22. The applicant claimed that the Respondent No.1 classified the accounts of Respondent No.2 company as NPA on 31.12.2011 and

16.05.26

issued a Demand Notice on 26.3.2024 (as referred to in Possession notice dated 17.3.2025). As provided under Article 62 of Limitation Act,1963 the time provided to take steps against mortgaged property is twelve years therefore, the time expired by 31.12.2023, and therefore it is in violation of Sec.36 of SARFAESI Act. Per contra the respondent No.1 claimed that as per the suo moto WP (PIL) orders a period from 15.3.2020 to 27.2.2022 is excluded due to COVID-19 pandemic and therefore their initiation of SARFAESI proceedings is extended by 714 days and further there are admissions by virtue of OTS which extended the limitation and therefore their SARFAESI action is within the period of limitation. In reply, the applicants relied upon the Judgment of Hon'ble Calcutta High Court in ***Sri Din Dayal Kayan vs Canara Bank And Anr in WPO/580/2024 decided on 9 July, 2024*** wherein while referring to another judgment of the same Court in ***Dr. Dipankar Chakraborty vs. Allahabad Bank & Ors. reported in AIR 2017 Cal 289***; it was categorically held that when the Demand notice was issued after twelve years beyond the prescribed period under Article 62 of Limitation Act, the same is in violation of Sec.36 of SARFAESI Act., hence the Bank is at liberty to proceed under pending RDB Act proceedings in OA and not under the SARFAESI Act. In the light of the above cited judgment, it is held that the SARFAESI action initiated by the Respondent NO.1 is time barred and the Respondent No.1 is not entitled and accordingly restrained to initiate SARFAESI proceedings in view of provision under Sec.36 of the SARFAESI Act.

23. In view of the above discussion, it is concluded that the applicants made out valid grounds to quash the entire action of the Respondent No.1 Bank against the application schedule properties

16.05.26

under the SARFAESI Act, 2002 including enforcement of the mortgage under the SARFAESI Act.

Point No.(Vii):

24. In the result, the Securitization Application is allowed by quashing the entire measures initiated by the Respondent no.1 Bank including Demand notice dated 26.3.2024, possession notice dated 17.3.2025 and auction sale held pursuant to sale notice dated 22.08.2025 in respect of the SA schedule properties and consequential sale confirmation, sale certificate issued in favour of 3rd Respondent and physical possession.

25. Consequently, the 1st Respondent is directed to refund the bid amounts deposited by the 3rd Respondent with interest @6% p.a. simple from the respective dates of deposit till payment.

26. The Interlocutory Application No.3514/2025 stands allowed and accordingly the Respondent NO.1 is also directed to re-deliver physical possession of the SA schedule property immediately to the applicants.

27. Other Interlocutory Applications pending if any, shall stand closed. No orders as to costs. Communicate a copy of the order to the parties concerned and upload in the official website.

(Typed to my dictation by the Steno, corrected, signed and pronounced by me in the open court on this the 06th day of May, 2026).

06.05.2026

(RAMESHWAR KOTHE)
PRESIDING OFFICER

RAMESHWAR KOTHE
Presiding Officer
Govt. of India
Ministry of Finance
DEBTS RECOVERY TRIBUNAL-2
Abids, Hyderabad-500 001.