IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 17th day of April, 2026

PRESENT: **SHRI SHARANG DHAR UPADHYAY**
Presiding Officer

IA No.28 of 2026 in
NDN (SA) No.2191 of 2025

1. Mr. Sulthan Irfan Sherieff
S/o SUlthan
House No.52 57 Natamkar Saibensa Kollai
1st Streeet, Natamkar Saibensa Kollai,
Ambur, Vellore, Tamil Nadu – 635 802

Also at
D.No.57, Block 20, Ward D Old S.F. No.414 Part
Near by Masjod TS No.20, Ambur SRO TK
Tirupattur, Vellore, Tamil Naduy – 635 802

Also at
Allfa International, Grouond Floor
Shop No.77/8, Vankara Kollai Road, Ambur
Vellore, Tamil Nadu – 635 802

2. Mrs. Samreen Kauser S
W/o Sulthan Irfan Sherieff
House No.52 57 Natamkar Saibensa Kollai
1st Streeet, Natamkar Saibensa Kollai,
Ambur, Vellore, Tamil Nadu – 635 802

…Petitioners / Applicants

Versus

M/s Piramal Capital and Housing Finance Ltd.
Represented by its Authorized Officer
Mr. Suresh Desaiyya
Kalpathilaka Towers, New No.36 Old No.24
3rd and 4th floor, Dr. Ambedkar Road
(Ashok Nagar Main Road)
Kodambakkam, Chennai – 600 024 **…Respondent / Respondent**

ORDER

1. This Interlocutory Application is filed by the applicant praying to condone the delay of 67 days in filing the instant SA filed seeking to set aside the measures initiated by the respondent pursuant to the order of the Ld. Chief Judicial Magistrate, Tirupathur dated 03.09.2025 made in Crl M.P. No.1573 of 2025

2. The SA is not numbered by the Registry for the reason that the same is filed beyond the period of limitation.

Case of the Petitioners / Applicants

3. The Petitioners are the borrowers who had availed a credit facility of Rs.61,64,000/- which was subsequently revised to Rs.63,63,977/- The loan was sanctioned on 29.3.2023 repayment in 180 months and the monthly EMI was fixed at 73,335/-. The Petitioners were regular in remittance till May 2023 and even after the filing of the petition before the Ld. CJM, Tirupathur in Crl M.P. No.1573 of 20225 seeking appointment of Advocate Commissioner for taking physical possession of the property under Section 14 of the SARFAESI Act, the applicant continued to pay the monthly installments and as of today only five monthly installments are overdue. When the applicant approached the

respondent for regularizing the loan by paying the overdues the respondent bank has failed to accept the same.

4. It is submitted that the applicant was not served with any statutory notices viz., demand notice and possession notice. Even the notice pertaining to Crl M.P. No.1573 of 2025 filed before Ld. CJM, Tirupathur was not served on the applicant.

5. The applicant came to know of the order only when the Advocate Commissioner visited the secured asset for taking physical possession. The delay has occurred solely due to want of knowledge of the said proceedings and not due to any negligence, willful default or deliberate inaction on the part of applicant.

6. The Advocate Commissioner appointed pursuant to the order dated 3.9.2025 in Crl. M.P. No.1573 of 2025 once again visited the scheduled property and affixed a seal on the property. Immediately upon gaining knowledge of the impugned order and the consequential actions of the respondent, the applicant took prompt steps to file the present SA. If the delay is not condoned the petitioner will be put to serious loss and irreparable hardship.

Counter filed by 1st Respondent Bank

4.0 The present SA has been filed challenging the order of the Ld. Chief Judicial Magistrate, Tirupathur dated 3.9.2025 under Section 14 of the SARFAESI Act with an inordinate delay of 67 days. The reasons stated in this application to condone the delay are vague, unsubstantiated and do not show sufficient cause. It is stated that the respondent has initiated the measures strictly in accordance with the SARFAESI Act and the Rules made thereunder.

4.1 The contention of the petitioner / applicants that they were not served either the demand notice or the possession notice and also that they came to know of the orders passed by the Ld. CJM under Section 14 of the SARFAESI Act only when the Advocate Commissioner took possession of the property are false and cannot be accepted. It is stated that it is settled principle of law that each day's delay ought to be explained, but in the present case the petitioners / applicants have failed to explain the delay of 67 days.

4.2 The Hon'ble High Court of Madras by its order dated 05.09.2019in Velar Engineering Works Pvt. Ltd., v. The Authorised Officer / Chief Manager has categorically held that the DRT has no power to condone the delay in filing an application under Section 17 of the SARFAESI Act by invoking Section 5 of the Limitation Act and

the said finding has attained finality upon dismissal of SLP (C) Dy. No.7023 of 2020 by the Hon'ble Supreme Court dated 09.07.2020. Further, reference was made to the judgment of Hon'ble Supreme Court in Bank of Baroda Vs. Parasaadila Tulsiram Sheet Grah Pvt. Ltd., and submitted that this Tribunal has got no powers to condone the delay in filing SA.

4.3 Thus contending the respondent bank prayed for dismissing the application filed for condoning the delay of 67 days in filing the SA.

Point for consideration

5.0 **Whether the instant application filed for condonation of delay of 67 days delay in filing the above SA is liable to be allowed?**

Answer to the Point for consideration

6.0 Section 17(1) of the SARFAESI Act, which reads as under, prescribes the period of limitation as 45 days for the purposes of challenging the measures initiated under the Act.

> **"17.** (1) Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorised officer under this Chapter, may make an application along with such fee, as may be prescribed, to the Debts Recovery Tribunal having jurisdiction in the matter **within forty-five days from the date on which such measure had been taken**:
>
> [Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.]"

6.1. Section 17(1) of the SARFAESI Act prescribes the period of limitation as 45 days from the date of measure. Therefore, the applicant ought to have filed the SA within 45 days from the date of the Sale Notice dated 29.10.2020. However, the same has been filed on 10.01.2025 with a delay of 1485 days.

6.2. In so far as the prayer to condone the delay in filing the SA is concerned, it would be pertinent to refer to the decision of the Hon'ble Apex Court. in "***Bank of Baroda and another Vs. Parasadilal Tursiram Sheetgrah Pvt. Ltd (AIR 2022 SC 3803)***", wherein the Hon'ble Supreme Court in para 12 had held as follows:-

> 12. " *the reason for providing a time limit of 45 days for filing an application under section 17 can easily be inferred from the purpose and object of the enactment. In Transcore v.Union of India and Another (2008(1) SCC 125) this court held that the SARFAESI Act is enacted for quick enforcement of the security. It is unfortunate that proceedings where a property that has been brought to sale had third party rights created under the provisions of the act, have remained inconclusive even after a decade."*

6.3. Moreover, it is no more res-integra that the proceedings under Section 17 of the SARFAESI Act is an original proceeding and necessary amendment in this regard had been brought out in the statute wherein the word 'appeal' had been substituted with 'application' in terms with the decision of the Hon'ble Supreme court in Transcore's Case reported in (2008) 1 SCC 125 holding

that mentioning the Section 17 proceedings as appeal is a misnomer. Be that there is no provision for condoning the delay in original jurisdiction".

6.4. Moreover, in so far as the applicability of the provisions of the Limitation Act, 1963 is concerned, reliance can be placed upon the judgment of the Division Bench of the Hon'ble Calcutta High Court in "***Akshat Commercial Private Limited & Others v. Kaplana Chakraborty & Others (AIR 2010 CALCUTTA 138)"***, wherein the Hon'ble High Court after a detailed analysis has held that since the proceedings under Section 17(1) of the SARFAESI Act are original in nature like a suit, Section 5 of the Limitation Act does not apply to such proceedings and therefore, DRT does not have jurisdiction to condone the delay by allowing the application filed under Section 5 of the Limitation Act. It is to be noted that though Special Leave Petitions (Civil) No.17529-31/2010 were filed against the said judgment and leave was granted by the Hon'ble Supreme Court, however, in view of the settlement between the parties, the said appeals were disposed of by the Hon'ble Supreme Court vide order dated 15.12.2021.

6.5. Similarly, the Division Bench of the Hon'ble High Court of Madras in "***Velar Engineering Works Private Limited v. The Authorised***

Officer / Chief Manager, Indian Bank, Kanchipuram and Others – CRP(NPD) Nos. 3785-3787/2012 in W.P. No. 31251/2018" has held that Section 5 of the Limitation Act has no application in the original proceedings like a suit before the DRT and therefore, the DRT has no jurisdiction to condone the delay in filing an SA by invoking Section 5 of the Limitation Act. Further, the appeal against the said order filed before the Hon'ble Supreme Court in SLP (Civil) Diary No.7023 of 2020 also was dismissed by the Hon'ble Supreme Court by its order dated 9.7.2020.

6.6 Further, in the recent ruling of the Hon'ble Apex Court in the case of "The Property Company (P) Ltd., Vs. Rohinten Daddy Mazda reported in 2026 LiveLaw (SC) 19, it has been held that the Tribunals have no power to condone the delay.

6.7. Hence on consideration of the above rulings of the Hon'ble High Courts and the Hon'ble Supreme Court, this Tribunal is of the view that there is no enabling provision permitting this Tribunal to condone the delay in filing application under Section 17 of the SARFAESI Act.

7.0. For the aforesaid reasons, the following:

ORDER

IA No.28 of 2026 stands dismissed. Consequently, the unregistered SA with SA Dy No.2191 of 2025 stands dismissed. All pending IAs stands closed. A copy of this order be communicated to the parties concerned.

Sd/-
(SHARANG DHAR UPADHYAY)
PRESIDING OFFICER
DRT-II CHENNAI

(Dictated to PS, who typed in the system directly, corrected, signed and pronounced by me in Open Court, on this 17th day of April, 2026)