IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 17th day of April, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

IA No.429 of 2025 in SA No. 132 of 2025

Mr. N. Selvam, S/o A. Natesan,
No.61/30, 9th Cross Street,
Trustpuram, Kodambakkam,
Chennai – 600 024. …Applicant

-Vs-

M/s. Piramal Capital & Housing Finance Ltd.
Formerly known as Dewan Housing Finance Corporation Ltd.
"Kalpalathika Towers", New No.36, Old No.24,
Dr. Ambedkar Road,
Ashok Nagar Main Road,
Kodambakkam, Chennai – 600 024. …Respondent

Counsels on record / appeared:

Counsel for Applicant : Mr. G. Vijayabalan

Counsel for Respondent : Mr. T.K.M. Sai Krishnan

ORDER ON IA No.429/25 in SA 132 /2025

The present Securitization Application [SA] is filed under sub section [1] of S.17 of the Securitization and Reconstruction of Financial Asset and Enforcement of Security Interest Act,2002 (for short the 'Act') challenging the action and the measure taken by the secured creditor under the Security Interest Enforcement Rules, 2002 [for short the Rules].

2. The applicant has challenged the Section 14 order dated 02.06.2022 before the Hon'ble CMM, Egmore in Crl.M.P.No.6580 of 2020 and the outstanding amount due as per Section 14 order is Rs.28,19,615/-. Admittedly, there is a delay of 12 days in re-

presentation of SA and hence the applicant had filed IA No.429/25 to condone the delay in filing the SA.

3. **Pleadings of the applicant:**

3.1 It is submitted by the applicant that the present SA is filed before this Tribunal through online on 13.07.2024 vide Diary No.1801/2024 challenging the impugned physical possession order dated 02.06.2022 passed by the Ld. CMM, Egmore and the same was enforced by the Advocate Commissioner on 31.05.2024. On 26.07.2024, the registry has scrutinized the present SA and returned for compliance which has to be re-presented on or before 09.08.2024. Due to illness of Counsel's family members, the SA was not represented within the time given by the registry and was re-presented only on 21.08.2024 and hence there is a delay of 12 days in representation of the SA and also prays to condone the 12 days delay. Hence prayed for condonation of delay of 12 days in re-presentation of SA.

4. **Objections of the respondent bank:**

4.1 The respondent bank has filed a detailed counter to IA No.495 of 2025 (Sic. IA No.429 of 2025) and submitted that the present SA filed by applicant is barred by limitation. It is submitted by the respondent that the applicant had misled the Tribunal by stating that applicant had knowledge of the order dated 02.06.2022 passed by the Ld. CMM, Egmore only on 31.05.2024 which is not sustainable as the applicant was aware of the Section 14 order on 05.02.2024.

4.2 It is further submitted by the respondent bank that pursuant to the order dated 02.06.2022, Warrant was issued by appointing Advocate Commissioner on 22.07.2022. However, the said Advocate Commissioner for some reasons failed to co-operate with the respondent and did not execute the warrant for considerable time. Therefore, the respondent was forced to file petition during 2023-24 before Ld. CMM, Egmore to replace the Advocate Commissioner. In the meantime, on 05.02.2024, the respondent along with panel lawyer, Mr. Kumarasamy visited the schedule mentioned property for inspection. The applicant along with his son and few others barged inside the schedule property and questioned the authority of the Authorised Officer. At that point of time, the panel lawyer, Mr. Kumaraswamy had texted the order dated 02.06.2022 passed by Ld. CMM, Egmore to the son of applicant, who was also present at that time. Applicant's son having acknowledged the message had replied as well. Therefore, it is abundantly clear that the applicant and his family members had clear knowledge of the order dated 02.06.2022 passed by Ld. CMM, Egmore.

4.3 The respondent contends that the applicant with an intention to mislead this Tribunal and to save limitation, had made wrong pleadings in Para No.4 of the affidavit stating that the order dated 02.06.2022 passed by the Ld. CMM, Egmore was known to applicant only on 31.05.2024. This act of applicant is not only misleading this Tribunal, but also amounts to perjury.

4.4 The respondent bank has relied on the judgment of Hon'ble High Court of Madras dated 05.09.2019 in **M/s. Velar Engineering Works Pvt. Ltd. Vs. The Authorized officer/ Chief Manager** in CRP(NPD)Nos.3785, 3786, 3787 of 2012 and W.P.No.31251 of 2018 and W.M.P.No.36463 of 2018 dated 05.09.2019 and submitted that DRT has no power to condone the delay in approaching DRT under Section 17 of the Act read with Section 5 of the Limitation Act.

4.5 The applicant is trying to narrate a concocted story in para No.2 of the affidavit stating that due to illness of the counsel's family members, the SA was not re-presented in the Registry within the specified time. In the first instance, the present SA itself is not filed within the limitation period and therefore the delay of 12 days in re-presentation of the SA does not carry any legal sanctity. Moreover, it is a settled principal of law that each and every day delay ought to have been explained in the affidavit. Hence the respondent prayed for dismissal of IA with costs.

5. **Rejoinder filed by Applicant:**

5.1 The applicant has filed rejoinder affidavit to the IA No.495 of 2025 (Sic. IA No.429 of 2025). In the affidavit it is contended by the applicant that the respondent bank has failed to disclose the pendency of SA No.303/2021 before DRT-II which was transferred to this Tribunal and numbered as TSA No.492/2023, further the TSA No.492/2023 came to be dismissed as not maintainable on 10.12.2024.

5.2 It is further submitted that the respondent bank has suppressed another material fact in Criminal Original Petition No.19140 of 2021 before the Hon'ble High Court about the pendency of Section 14 application in Crl.M.P.No.6580/2020 before the Hon'ble CMM, Egmore. The applicant had further contended that the Authorised Officer of the respondent company has no power to sign, present and represent the respondent company in the absence of specific authorization from the Administrator appointed by Reserve Bank of India as CIRP process was initiated against the respondent company.

5.3 The applicant has relied on the judgment of **Jishore Samrite Vs. State of Uttar Pradesh and Ors. before the Hon'ble Supreme Court of India,** reported in (2013) 2 SCC 398 which was followed by Hon'ble High Court of Madras in Crl.O.P.No.1230 and 1232 of 2025 dated 07.08.2025. On these grounds the applicant prays to condone the delay of 12 days in representation of SA.

Heard both sides of the Counsels and perused the records of the case.

6.1 It is manifest from the records that the applicant has not disputed availing of the credit facilities from the respondent and execution of equitable mortgage in favor of the respondent bank by way of MODT dated 30.10.2017. The applicant has filed the present SA challenging the Section 14 order dated 02.06.2022 before the Hon'ble CMM, Egmore in Crl.M.P.No.6580 of 2020 on 15.07.2024.

6.2 Further, the applicant has filed an IA No.429 of 2025 to condone the delay of 12 days in re-presenting the present SA stating that due to illness of applicant counsel's family members, the counsel has failed to represent the SA on or before 09.08.2024.

6.3 The respondent bank has filed counter, contending that the applicant was aware of the Section 14 order dated 02.06.2022 on 05.02.2024 itself, which was sent to applicant's son through WhatsApp and the same was acknowledged. The same is evident from the photo copy of screen shot produced by the respondent bank at Page No.6 of the typed set along with counter. Hence, it is very much evident that the applicant was aware of the Section 14 order dated 02.06.2022 on 05.02.2024 while the SA is filed only on 15.07.2024. The applicant had stated under Limitation column that *"the Section 14 order was enforced on 31.05.2024 by the respondent and as such the same is within the period of limitation as prescribed under the SARFAESI Act".*

6.4 Now, considering the delay application, the Tribunal is posed with the question whether the Tribunal can condone the delay under Section 17 of the SARFAESI Act?

For appreciation of the facts Section 17(1) is extracted as under: -

S.17(1):

Application against measures to recover secured debts *(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 authorized 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 measures had been taken:

[Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.]

[Explanation.- For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under this sub-section(1) of section.17.]

6.5 A reading of the above provision, it is palpable that there is no provision made by the Parliament for condonation of delay in approaching the DRT against the measures, no matter whatever be the cause and howsoever justifiable it may sound. Unless power to condone delay is legislatively granted expressly or by inference, the Tribunal cannot condone delay. It is the indication of Parliament that one who wants to have redressal must knock the doors of DRT within 45 days and subsequently those doors should permanently stand closed. In other words, law does not come to the aid of those who are sleepy and late.

6.6 Thus, it is clear that any person aggrieved by any measures under Section 13[4] is required to approach the Tribunal under Section 17 within 45 days from the date of the measure. Evidently, the present SA challenging the Section 14 order dated 02.06.2022 is not filed within the period of 45 days from the date of knowledge i.e., 05.02.2024, even though the

applicant was aware of the Section 14 order on 05.02.2024 itself but had waited till the last moment and had filed the SA (claiming to be within limitation) after the respondent had taken physical possession of the property and the re-presented the present SA with a delay of 12 days.

6.7 This view of the Tribunal is confirmed by the judgement of the Hon'ble Supreme Court in the case titled ***Bank of Baroda – Vs.- Parasaadilal Tursiram Sheetgrah Pvt. Ltd, reported in 2022 Livelaw (SC) 671***, at para 12, observed that a time limit of 45 days for filing an application under Section 17 of SARFAESI Act is provided for quick enforcement of the security is as under:

> "***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 Anr. 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 and third-party rights created under the provisions of the Act, have remained inconclusive even after a decade."***

6.8 Further the Hon'ble Calcutta High Court in ***Akshat Commercial Pvt Ltd. Vs. Kalpana Chakroborty*** has taken view that S.17 is mandatory and therefore the question of condoning the delay does not arise. If the Parliament intended that DRT should have power to condone delay, it would have enacted a provision like Section 5 of Limitation Act to SARFAESI Act.

As it consciously chosen not to do it clearly emphasis the purpose of the SARFAESI Act.

6.9 The Tribunal is of the view that DRT has no power to condone delay in an application under Section 17 of the Act, as it is a special law for speedy recovery of money due to bank in enforcing the security available to them is reinforced at para 65 of the judgement of the Hon'ble Supreme Court in ***Celir LLP Vs. Bafna Motors [Mumbai][P] Ltd.,*** reported in [2024] 2 SCC 1 at para 65 which is reproduced here under:

> *"The SARFAESI Act is a special law containing an overriding clause in comparison to any other law in force. The SARFAESI Act is a special law of recovery with a paradigm shift that permits expeditions recovery for the banks and the financial institutions without intervention of Courts. If the general law is allowed to govern in the manner as sought to be argued by the borrowers, it will defeat the very object and purpose…."*

6.10 Therefore, it is obvious that when a special legislation grants aright of action it is subject to certain conditions and create a forum for its implementation, that right becomes exercisable on satisfying such conditions and not otherwise and Limitation period is one such condition.

6.11 It is a settled legal proposition that law of limitation may harshly affect a particular party, but it must be applied with all its rigor when the statute so prescribes. The Tribunal has no power to extend the period of limitation on equitable grounds and has no power to ignore that provision to relieve what it considers a distress resulting from its operation as per the

Judgement of Hon'ble Supreme Court in the matter of ***P.K. Ramachandran vs. State of Kerala***, *reported in (1997) 7 SCC 556,* the Hon'ble Supreme Court has held thus:-

> *"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds".*

Hence, the legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation.

6.12 The question whether the Debt Recovery Tribunal can entertain an application under Section 17 of the Act after 45 days of measure referred to in sub section [4] of Section 13 is no more res integra.

6.13 The Hon'ble Division Bench of High Court of Kerala in Writ Appeal No.1797 of 2009 in W.P.(C) No.22192 of 2007 in the case titled **K.PJayan vs. Hong Kong & Shanghai Banking Corporation Ltd and others** decided on 31.08.2015 had categorically held that the power to condone delay in entertaining an application under Section 17 of the SARFAESI Act is not conferred on the Debts Recovery Tribunal. It further held that the Debts Recovery Tribunal cannot consider an application for condonation of delay under Section 5 of the Limitation Act in an application under Section 17 of the SARFAESI Act. The relevant para is extracted as under:

> *"7. Referring to these provisions the contention urged before us is that since section 24 of the RDB Act makes Limitation Act applicable and as the DRT constituted under the RDB Act is*

conferred with jurisdiction under section 17, Limitation Act governs applications made in a proceedings under section 17 also. We are unable to accept this contention. Both the RDB Act and the SARFAESI Act are independent enactments, although certain provisions of the RDB Act are made applicable in respect of the proceedings under the SARFAESI Act also. However, that does not mean that every provision of the RDB Act would apply to every proceedings initiated under the SARFAESI Act. In so far as this case is concerned, proceedings were initiated under SARFAESI Act and in view of the provisions contained in section 17 conferring jurisdiction on the DRT constituted under RDB Act application is made by the appellant before the DRT. That does not mean that provisions of section 24 of the RDB Act governing the proceedings taken thereunder would get automatically attracted to such proceedings before the DRT. Therefore, the contention raised relying on section 24 in so far as this case is concerned is only to be rejected and we do so. This is further clear from section 36 of the SARFAESI Act, which confines the applicability of the Limitation Act to measures under section 13(4) of the said Act."

6.14 Further, the Hon'ble High Court of Kerala has also considered the issue in the case titled ***The Authorized Officer, Indian Bank Vs. K.J. George,*** order dated 02.11.2020 has placed reliance on ***K.P. Jayan V. Hong Kong & Shanghai Banking Corporation*** and has held that DRT has no power to condone the delay u/s.17 of the Act.

6.15 As per Section 17 of the SARFAESI Act, an application against measures to recover secured debts, must be filed before the Debts Recovery Tribunal within forty-five days from the date on which such measure had been taken. It further observed that *"The reason for providing a time limit of 45 days for filing an application under Section held that the SARFAESI Act is enacted for quick enforcement of the security, which can easily be inferred from the purpose and object of the enactment.* In **Transcore v.**

Union of India and Anr, this Court held that the SARFAESI Act is enacted for quick enforcement of the security.

6.16 Additionally in the instant matter the applicants have failed to make a case to condone each day's delay by producing any documents in support of their case without any justifiable reasons. However, the delay cannot be condoned on equitable grounds and in support of its view, the reliance is placed on the Judgement of Hon'ble Supreme Court in the case titled **Lingeswaran Vs. Thirunagalingam** where it is observed that an application for condonation of delay has to be dismissed, if it is found that the delay is not properly explained and that the period of limitation cannot be extended on equitable ground. Otherwise, it would be giving a premium to a person who fails to explain the delay and who is guilty of delay and laches. The court also observed *"The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same.*

6.17 The Hon'ble Apex Court also noted the following observations made in **Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai**, (2012) 5 SCC 157, while dismissing the SLP:

> *"The law of limitation is founded on public policy. The limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the court for vindication of their rights without unreasonable delay. The idea underlying the concept of limitation is that every remedy should*

remain alive only till the expiry of the period fixed by the legislature. At the same time, the courts are empowered to condone the delay provided that sufficient cause is shown by the applicant for not availing the remedy within the prescribed period of limitation."

6.18 The Tribunal also places reliance on the judgement of the Hon'ble ***High Court of Karnataka at Bengaluru*** in the case of ***Kailasam P – Vs.- The Karnataka Bank Limited, Rep. by its Authorised Officer*** in ***Writ Petition No.11273 of 2024 (GM-DRT)*** has held that:

"law of Limitation fixes upon a particular period within which a party is entitled to institute legal proceedings and if he fails to do so, ordinarily the cause of action dies subject to just all exceptions. Law of Limitation is statute of repose. True it is that any welfare State like ours is bound in good faith to furnish its citizens all needful legal remedy however it is not bound to keep its Courts and Tribunals open ad infinitum. If an aggrieved person neglects or refuses to apply for redress within the prescribed period of limitation, his claim is lost in the lapse of time."

6.19 In other words, the statutory time of 45 days provided under Section 17(1) of the SARFEASI Act is mandatory and no discretion has been conferred upon the DRT to extend such period. It is pertinent to note that the Securitization Act is for quick enforcement of the security interest created favoring the respondent bank for the recovery of the amount due.

6.20 In fact the provisions of the Act and Rules framed thereunder cast an obligation upon the secured creditor for strict compliance of the SARFAESI Act and the Rules made thereunder. Each measure is to be

followed meticulously giving a time frame to proceed further. Firstly, the measures can be initiated after the account is classified as NPA, then issuance of statutory notice ie., demand notice demanding outstanding due to be repaid within 60 days.

6.21 The secured creditor must wait for completion of 60 days and then proceeds further under S.13[4] possession notice which is challengeable within a period of 45 days. Similarly, the Order of CJM or DM is also to be challenged within 45 days. In other words, ample opportunity is granted by the Act for an aggrieved person to invoke his right of appeal under Section 17 of the Act within a period of 45 days from the date of measure. The provisions of the Act and the Rules made thereunder puts the borrower/guarantor/mortgagor notices in advance before taking measures under Section 13(4) of the Act read with Rule 8 and 9, giving the aggrieved person ample of time and opportunities to assail measure within a period of 45 days.

6.22 Thus, the provisions of the Act and Rules ensures that the borrowers have advance notice of the proposed measure to be taken by the secured creditor. The judgement of the Hon'ble Supreme Court in ***Bank of Baroda – Vs.- Parasaadilal Tursiram Sheetgrah Pvt. Ltd*** has given a quietus to the conundrum which existed until that time on the power of the DRT to condone the delay in filing an SA after the statutory period of 45 days provided under Section 17(1) of the SARFEASI Act.

6.23 The Tribunal also places reliance on Order dated 27.06.2023 passed in MA [SA]32/2021 by the Hon'ble DRAT Chennai has held that the statutory period of 45 days in challenging the measures cannot be condoned. The further reliance of the judgment dated 13.06.2025 passed by Hon'ble DRAT Chennai in MA.[SA] 31/2022,wherein it is held that if an application under Section 5 of Limitation Act is entertained in an application filed under S17 of SARFAESI Act,2002, it would derail the very purpose of the SAFAESI Act.

6.24 On perusal of the records it is seen that the applicant has admittedly re-presented the present SA with a delay of 12 days and any documents to support their contention. The applicant had failed to point out any reasons for the delay in filing despite knowledge about the order on 05.02.2024 instance. The applicant had waited till the Advocate Commissioner had taken physical possession of the property and handed over to the respondent and had chosen to file the SA. For the foregoing reasons, the present IA No.429 of 2025 is only to be dismissed.

7. Resultantly, IA No.429 of 2025 stands dismissed, consequently SA No.132 of 2025 stands dismissed. Interim Order granted, if any stands vacated, pending IAs are disposed of in terms of this final order. No order as to cost.

Sd/-
(S.V. GOWRAMMA)
PRESIDING OFFICER,
DRT-III, CHENNAI

(Dictated to PS, transcribed by her, corrected, signed and pronounced by me on this the 17th day of April, 2026)