IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 29th day of April, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

IA.No.2894 of 2025
In
SARFAESI APPLICATION No. 845 of 2025

1. Mrs.V.K.Gheetha
Wife of Mr.Vichai R. Bhaskar
Residing at No.3/291,
Plot No.5B, Balaji Nagar 2nd Street,
Kolapakkam, Chennai,
Kancheepuram – 600 122.

2. Mr.Vichai R. Bhaskar
Son of Mr.Ramachandran
Residing at No.3/291,
Plot No.5B, Balaji Nagar 2nd Street,
Kolapakkam, Chennai,
Kancheepuram – 600 122. ….Applicants

-Vs-

JM Financial Asset Reconstruction Company Limited
Acting in its capacity as trustee of Aranya - Trust
Rep by its Authorized Officer
7th Floor, Cnergy, Appasaheb Marathe Marg,
Prabhadevi, Mumbai – 400 025. ….Respondent

Counsels on record / appeared:

Counsel for Applicant : M/s. A. Rajendra Kumar & T.C. Gopalakrishnan.

Counsel for respondent : Mr. TKM. Saikrishnan.

ORDER ON IA.No. 2894/2025 in SA.No.845.2025

1. The present Securitization Application [SA] is filed on 03.12.2025 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

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creditor under the Security Interest Enforcement Rules, 2002 [for short the Rules].

2. The applicant has challenged the Sec.13(4) Possession Notice dated 17.02.2025 and the outstanding amount due as per Sec.13(4) Possession Notice is Rs.27,37,583/- and admittedly there is a delay of 245 days in file the SA. Hence the present IA No. 2894 of 2025 is filed under section 17(7) of SARFAESI Act, 2002 R/w section 5 of the limitation Act, 1963 to condone the same.

3. The prayed as sought for in the present SA is to set aside and quash the impugned possession notice dated 17.02.2025 issued by the respondent in respect of the schedule mentioned property, contending that the respondent is taking steps to sell the property without following the due process of law, hence the applicant has approached this Tribunal to challenge the validity of the action of the respondent.

4. It is submitted that unless all further proceedings initiated by the respondent under the SARFAESI Act in respect of the possession notice dated 17.02.2025 is stayed, the applicants will suffer irreparable loss and hardship, whereas no prejudice will be caused to the respondent.

5. The applicants could not file the application within the stipulated time frame due to unforeseen circumstances and accounts were freeze, resulting in a significant financial constraint and impacted the financial stability, leaving the applicants without any alternative sources of income to pursue

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the matter further. Hence, there is a delay of 245 days in filing the application and prays to condone the same.

Objections of the respondent bank to the IA.No.2894 of 2025:

6. The respondent bank has filed the counter contending that the present SA.845 of 2025 is filed challenging the U/s.13(4) possession notice dated 17.02.2025 under the SARFAESI Act with an inordinate delay of 245 days. The Applicants filed the present IA No. 2894 of 2025 to condone the delay of 245 days stating financial constraints as a reason in filing the present SA with inordinate delay without any valid reason for filing the present SA with delay.

7. Moreover it is a settled principle of law that each days of delay to be explained, but in the present case the Applicants failed to explain the delay of 245 days. The SA is not filed within the stipulated period of 45 days under S.17 of the act, hence the present I.A. No. 2894 of 2025 in SA No. 845 of 2025 ought to be dismissed in limine with cost.

8. It is submitted that the Hon'ble High Court of Madras, by order dated 05.09.2019 passed in CRP (NPD) Nos. 3785, 3786 and 3787 of 2012 and W.P. No. 31251 of 2018 with W.M.P. No. 36463 of 2018 in M/s. Velar Engineering Works Pvt. Ltd. v. The Authorized Officer/Chief Manager, has categorically held that the DRT has no power to condone delay in an application filed 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) Diary No. 7023 of 2020 by the Hon'ble Supreme Court by order dated 09.07.2020.

9. Further, the judgment of the Hon'ble Madras High Court in Velar Engineering Works Pvt. Ltd. v. The Authorized Officer, Indian Bank, Kanchipuram and the judgment of the Hon'ble Supreme Court in Bank of Baroda v. Parasaadilal Tulsiram Sheet Grah Pvt. Ltd. (2022) clearly establishes that the period of 46 days prescribed under Section 17(1) of the SARFAESI Act.

10. Since, an application under Section 17 is original in nature after the statutory amendment, the provisions of Section 5 of the Limitation Act are wholly inapplicable; the legal position has also been expressly reiterated and followed before the Hon'ble Tribunal, Mumbai in M.A. No. 81 of 2025 in S.A.(D) No. 1068 of 2025, Pradeep Gordhandas Vora v. HDFC Bank Ltd., by order dated 15.09.2025, and therefore, the present I.A. No. 2894 of 2025 in SA No. 845 of 2025, having been filed beyond the statutory period, is liable to be dismissed as barred by limitation.

11. In view of this, the Hon’ble Tribunal dismissed I.A. No. 2894 of 2025 in SA No. 845 of 2025 for condonation of delay of 245 days.

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

12. The applicant admittedly did not challenge the possession notice within the prescribed period of 45 days, however the present application

has been filed with an inordinate delay of 245 days, contending financial constraints in not filing the application within time. The affidavit filed along with the delay application is not made out a case or explained each days delay in filing the case.

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

For appreciation of the facts S.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.]

14. 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 & late.

15. Thus, it is clear that any person aggrieved by any measures under Section 13[4] is required to approach the Tribunal under S.17 within 45 days from the date of the measure. Evidently, the present SA challenging the possession notice dated 17.02.2025, is not filed within the period of 45 days and the same is filed with a delay of 245 days.

16. 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."

17. 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 S.5 of Limitation Act to SAFAESI Act. As it consciously chosen not to do it clearly emphasis the purpose of the SARFAESI Act.

18. The Tribunal is of the view that DRT has no power to condone delay in an application under S.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…."

19. 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. 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.

20. Additionally in the instant matter the applicants have failed to make a case to condone each day's delay 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 Tribunal places reliance 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.*

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21. In the instant matter it is admitted that the applicant account is freezed and they were not able to do business which clearly reflects the financial indiscipline which supports the case of the bank for the measure taken to enforce the security available to them.

22. 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.

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24. In the instant matter it is admitted that the applicant account are freezed and they were not able to do business which clearly reflects the financial indiscipline which supports the case of the bank for the measure taken to enforce the security available to them.

25. The Hon'ble Apex Court in **Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai**, (2012) 5 SCC 157, while dismissing the SLP observed as under:

> *"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."*

26. 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."

27. 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.

28. 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.

29. 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 S.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.

30. 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.

31. The Hon'ble High Court of Madras, by order dated 05.09.2019 passed in CRP (NPD) Nos. 3785, 3786 and 3787 of 2012 and W.P. No. 31251 of 2018 with W.M.P. No. 36463 of 2018 in **M/s. Velar Engineering Works Pvt. Ltd. v. The Authorized Officer/Chief Manager**, has categorically held that the DRT has no power to condone delay in an application filed 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) Diary No. 7023 of 2020 by the Hon'ble Supreme Court by order dated 09.07.2020.

32. Further, the judgment of the Hon'ble Madras High Court in Velar Engineering Works Pvt. Ltd. v. The Authorized Officer, Indian Bank,

Kanchipuram and the judgment of the Hon'ble Supreme Court in Bank of Baroda v. Parasaadilal Tulsiram Sheet Grah Pvt. Ltd. (2022) clearly establishes that the period of 45 days as prescribed under Section 17(1) of the SARFAESI Act.

33. The Tribunal also places reliance on Order dated 27.06.2023 passed in MA [SA]32/2021 by the Hon'ble DRAT Chennai where it is 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 S.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.

34. For the foregoing reasons, the present IA stands dismissed. Consequently SA 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 Steno (Suriya), transcribed by him, corrected, signed and pronounced by me on this the 29th day of April, 2026)*

ANNEXURES

LIST OF DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Documents No.
1.	Impugned Possession Notice dated 17.02.2025.	A-1

SCHEDULE OF PROPERTY

Description of the Immovable Property

Door No.3/291, Plot No.5b, Balaji Nagar 2nd Street, Kolapakkam, Chennai, Kanchipuram, Tamil Nadu -600 122.

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

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