IN THE DEBTS RECOVERY TRIBUNAL-II, BANGALORE

Dated this 30th Day of April 2026

PRESENT: SHRI T. RAJESH
Hon'ble Presiding Officer

S.A. (NDN) 3546 OF 2025

Mr. R. Raghavendra,
S/o. Late T Ramu,
Residing at No.21/1,
Flat No. B 301,
2nd Floor, "Emmanuel Pearl",
Rest House Road,
Bangalore -560001.

. . . Applicant

Versus

1. Encore Asset Reconstruction Company Private Limited,
Rep. by its Managing Director,
Corporate Office at,
5th Floor, Plot No. 137,
Sector -44, Gurugram,
Haryana, India -122002.

Also at:
Rep. by the Authorized Officer,
Office at No. 101, Executive Zone,
No. 766 Shakti Tower,
Ground Floor, Anna Salai,
Chennai -600002.

Also at:
Rep. by the Authorized officer,
Office at Caddio Commercial Tower,
Regus Business Centre,
5th Floor, Aerocity (Dial),
New Delhi, India -110037.

2. Indostar Capital Finance Limited,
Rep. by its Managing Director,
Office at No. 21 Raja Glitz,
1st Floor, Above Karnataka Bank,
KH Road, Bangalore -560027.

3. Sri. M V Vinod @ Vinod Venogopal Mysore,
S/o. Late M. V. Gopinath,
Residing at: No. 121,
42nd Cross, 8th Block,
Jayanagar, Banashankari 2nd Stage,
Bengaluru -560082.

4. Smt. Ashwini Raghava Reddy,
D/o. Raghava Reddy,
No. 506, Flat No. 3B,
Indus Oasi, 15th Main,
Koramangala, 3rd Block,
Bengaluru -560034.

---Respondents

Ld. Counsels on record / appeared :-

Counsel for Applicant	: -	Sr. counsel Mr. Dhyan Chinnappa, Sappannavar & GSK Legal
Counsel for Respondent No.1	:-	M. S. Suryanarayan Rao
Counsel for Respondent No.3	:-	Yeshu Mishra

: - O R D E R - :

1. The Securitization Application, in short this SA is filed by the applicant who claims to have procured an Award though Arbitration proceedings allowing specific performance of an agreement to sale executed by the 3rd respondent; the borrower. The applicant is impugning the e-auction conducted on 10.12.2025 including the public notice of e-auction dated 31.10.2025 issued

by the 1st respondent invoking the provisions of "Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act in short the SARFAESI Act or Act.

2. Compendium of facts as stated by the applicant is as follows. The 3rd respondents acquired schedule property had availed loan facility from respondent no.2 creating charge over the schedule property. It is also contended that as the 3rd respondent expressed his inability to repay the loan and as applicant was in search of a property, it was agreed that the property would be purchased by the applicant and an agreement for sale dated 23.07.2020 was executed an amount of Rs.40,00,000/- (Rupees forty lakh only) had been transferred. It is also stated that an additional amount of Rs.21,00,000/- (Rupees twenty-one lakh only) was paid as an additional advance.

3. The applicant is claiming that altogether an amount of Rs.93,00,000/- (Rupees ninety-three lakh only) had been paid agreeing that the balance sale consideration of Rs.1,32,00,000/- (Rupees one crore thirty-two lakh only) was agreed to be paid at the time of execution of sale deed. It is also stated that as the 3rd respondent failed in execution of the agreement resulting. Applicant invoking Arbitration clause by issuing a notice and filing a petition under section 11 of the Act it is also stated that an Arbitrator had been appointed by

the Hon'ble High court and that the Ld. Arbitrator had passed an award on 10.09.2025.

4. It is also admitted that in the meanwhile the debt had been assigned by the 2nd respondent in favour of 1st respondent and pursuant to which the applicant had requested the 1st respondent to facilitate redemption of the property by e-mailing the communication dated 12.09.2025.

5. In the grounds to the SA, the applicant is contending that the sale of the schedule property through e-auction sale pursuant to e-auction sale notice is illegal as the same is done with out allowing the applicants right of redemption by virtue of the award the applicants right to discharge the out standing loan. It is also specifically contented that applicant is entitled to redeem the property as per section 60 and 91 of the Transfer of Property Act. The applicant is further contending that auction despite being aware that the applicant was fully prepared to discharge the outstanding is per se illegal and liable to be set aside.

6. It is also contended that the 1st respondent failed in compliance of the mandate of rules. Along with the SA, the applicant had produced following documents.

1. Copy of the registered agreement the sale date 23.07.2020.
2. Copy of addendum to the sale agreement dated 08.01.2021 and 06.04.2022.

3. Copy of the Arbitral award dated 10.09.2025

4. Copy of stamp duty paid by the applicant.

5. Copy of e-mail and written communication dated 12.09.2025 by the applicant to respondent no.1

6. Copy of public notice for e-auction and paper publication of the same,

7. Copy of commercial execution petition.

8. Copy of interim order in Arbitration proceedings.

7. This SA is filed with a petition to condone the delay of 4 days and according to the applicant the delay had been occasioned as the measures were originally impugned before the Hon'ble High Court and the same was withdrawn with liberty to move before the Tribunal.

8. The 1st respondent filed their objection contending that applicant is a stranger as far as the proceedings are concerned. It is also stated that the respondent had followed the procedure as required by the statute. In these measures leading to the issuance of sale notice and in conduct of sale.

9. The Auction purchaser, who is impleaded as additional 4th respondent had filed their objection inter alia contending that the SA is devoid of any merits. It is also contented that pursuant to the public notice sale was conducted through e-auction where in 4th respondent emerged as a successful

bidder for Rs.3,36,00,000/- (Rupees three crore thirty-six lakh only) and sale confirmation had been issued on 10.12.2025. It is also stated that EMD of Rs.33,50,000/- (Rupees thirty-three lakh fifty thousand only) and balance amount of Rs.50,50,000/- (Rupees fifty lakh fifty thousand only) making out 25% of the amount was paid by 11.12.2025. It is also contended that the entire sale consideration of Rs.2,52,00,000/- (Rupees two crore fifty-two lakh only) was paid on 19.12.2025. The 4th respondent had further denied all the contentions taken by the applicant. Along with the objection the 4th respondent had produced the following documents.

1. Public notice of e-auction notice
2. Sale confirmation letter
3. E-mail communication dated 16.12.2025.
4. Receipt of entire sale consideration.

10. Heard the Ld. Senior Counsel for the applicant and counsel for Respondent No.1 and Respondent No.4. The following issues that arise for consideration.

1) Whether the applicant is entitled to get the property redeemed?

2) Whether the sale of property is conducted in disregard to right if any of the applicant to redeem the property?

Both these issues are gone into and decided together.

11. The Applicant himself is admitting that he was aware as the liability of the respondent no.3 towards the 2nd respondent, which the 1st respondent got assigned in their favour. Hence it is evident that the agreement for sale was with full knowledge as to the mortgage executed in favour of 2nd respondent, the secured creditor. In view of the above, it is clear the applicant cannot claim any right which the borrower is not having. The Ld. Senior counsel for the applicant contented the applicant being the purchaser is entitled to redeem the same stepping into the shoes of the mortgagor. There cannot be any different view as to the above preposition put forth by the applicant but the question is at what point the same is to be exercised or effected is crucial. In this regard also, the applicant cannot claim any better right than the mortgagor. Hence in view of above the lis narrows down to the issue whether the applicant had exercised the right of redemption which was available for him.

12. The Ld. counsel for the applicant placing heavy reliance on the e-mail communication dated 12.09.2025 wherein the applicant had requested the 1st respondent to permit the applicant to discharge the entire out standing in the loan account of the respondent no.3. Hence according to the applicant the above communication, the same is to be considered as step for redemption of mortgage and in that circumstances the 1st respondent's action in e-auction the

same defeating the right of the applicant can only be treated as an attempt to scuttle the right of the applicant.

13. In contra the Ld. counsel for the respondent no. 1 contents that the applicant being a purchaser who purchased the property fully aware as to the mortgage is not entitled to challenge the measures. It is also stated that the Applicant being a third party cannot claim redemption as a matter of right.

14. The Ld. counsel 4th respondent had also supported the contention of the respondent no.1 that applicant being a purchaser, with notice as to the mortgage not entitled to challenge the measures taken in pursuant to the mortgage.

15. Having found that the right of applicant is qua that of the mortgagor the right to redeem is available to the applicant up to is the only question that is to be gone into up to what point the right of redemption is available is no more *res-integra* as the Hon'ble Supreme in *Celir LLP vs. Bafna Motors (Mumbai) Pvt. Ltd. and Ors.* Even though by enactment of SARFAESI Act, the right of mortgagor to reduce the property as provided under section 60 of the Transfer of Property) Act is not taken away, a restriction is imposed by virtue of section 13(8) of the act that the said right is to be exercised before the date of

publication of the sale notice (post amendment). In *Celir LLP (supra)* the Apex Court laid down the above proposition is in para 97

> *97. The genesis of the entire case lies in the illegitimate conduct of the Bank in placing different concerns above the clear provisions of the law. First, there was failure on the part of the Bank to issue sale certificate in favour of the auction purchaser despite the fact that the entire payment of auction bid was made. Secondly, although the right of redemption clearly stood lapsed Under Section 13(8) of the SARFAESI Act and auction having taken place wherein full bid amount was received, yet the Bank proceeded to accept the offer of full payment of the Borrower which is clearly impermissible in law.* ***Once the auction notice*** *is published in accordance with Section 13(8) of the SARFAESI Act, then unless and until the auction is held to be bad and illegal in the facts of the case, the right of redemption of mortgage is not available to the borrower. (Emphasis supplied)*

16. In the case in hand the so claimed reediness to exercise the right of redemption is expressed by the applicant on 12.7.2025, where as the publication of sale notice is on 31.10.2025. in view of the above it is clear that the so claimed readiness had been expressed when the right of redemption was

available to the mortgagor in whose place the applicant had been putting forth his claim.

17. Now the question arose whether there is due exercise of right by the applicant under section 13(8) of the Act. The applicant in his representation though claims his so-called readiness to pay the amount due from 3rd respondent, is not tendering any amount in due in the account. In this regard will be helpful to refer section 13(8) of the Act.

> *Set 13(8) Where the amount of dues of the secured creditor together with all costs, charges and expenses incurred by him is tendered to the secured creditor at any time before the date of publication of notice for public auction or inviting quotations or tender from public or private treaty for transfer by way of lease, assignment or sale of the secured assets,-*
>
> *(i)the secured assets shall not be transferred by way of lease assignment or sale by the secured creditor; and*
>
> *(ii)in case, any step has been taken by the secured creditor for transfer by way of lease or assignment or sale of the assets before tendering of such amount under this subsection, no further step shall be taken by such secured creditor for transfer by way of lease or assignment or sale of such secured assets.*

As held earlier only a readiness to pay the due amount and readiness the property was expressed on 12.09.2025. The time gap between the of experience of readiness and publication of sale notice when the right of redemption is extinguished (31.10.2025) is relevant as it was open for the applicant to exercise his right as provided under general law and make any endeavor to get the property redeemed before the date of publication of sale notice. Having made a representation and keeping idle waiting for a response from the secured creditor who had no privity of contract or legal obligation to communicate to the applicant cannot any way be termed as an exercise of right of under section 13(8) of the Act.

18. In view of the finding as entered above, this Tribunal is of the view that there is no merit in the SA and applicant at this point cannot successfully challenge the sale which is conducted in accordance with the statue as the right under 13(8) of the Act, though was available for the applicant before publication of sale notice and the applicant failed to exercise the same when it was available.

19. The discussions as held aforementioned and findings entered based on the same, leads to the irresistible conclusion that there is no merit in the SA and the same is to be dismissed.

In the result SA.(NDN) 3546 of 2025 stands dismissed, all pending IAs stands closed. No orders as to cost. Issue copies in accordance with rule 16 of the Debt Recovery Tribunal (procedure) rule.

(Dictated to PY directly on the Computer, after its transcription, corrected and pronounced by me in the open Court on this the 30th day of April, 2026)

Sd/-
(T. RAJESH)
PRESIDING OFFICER