IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 08th day of May, 2026

Present: SMT. S.V. GOWRAMMA

Presiding Officer

IA.NO.766.2026

In

SARFAESI APPLICATION No. 247 of 2026

Mr.P.Selvaraj, S/o.Periyasamy,
No.361, New Street, Mangalam Village,
Thevaiyur (Majira) Ranjankudi Post,
Veppanthattai Taluk,
Perambalaur District 621 103. ….Applicant

-Vs-

The Authorized Officer,
City Union Bank Limited,
Credit recovery and Management Department,
"NARAYANA" Administrative Office
No.24-B, Gandhi Nagar
Kumbakonam –612 001. ….Respondent

Counsels on record / appeared:

Counsel for Applicant : M/s. RKM Suresh & Adhitya.D,
M. Pugazhanthi.

Counsel for respondent : M/s. S. Anuradha Balaji, G. Kousalya,
M. Vigneshwaran & B. Shruti.

ORDER ON IA.No.766.2026 in SA.NO.247/2026

1. The present Securitization Application [SA] is filed on 26.12.2023 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].

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2. The applicant has challenged the Sale held on 25.10.2023 between 01.00 PM pursuant to E-Auction Sale Notice dated 04.10.2023 and the outstanding amount due as per Sale Notice is Rs.3,34,64,939/-. Admittedly there is a delay of 9 days in filing the SA. Hence the present IA No. 766/ 2026 is filed under section 17(7) of SARFAESI Act, 2002 R/w section 5 of the limitation Act, 1963 to condone the same.

3. In the affidavit filed by the Counsel along with the application it is contended that due to the termite attack in the office the enter office was closed with the case papers of disposed and current files together. Hence couldn't find the current case files is not willful nor wanton, thus prays Registry to condone the delay of 9 days in filing the above application. The respondent has already sold the property unless SARFAESI Application is taken on an urgent basis the illegal action of the respondent cannot be questioned.

Objections of the respondent bank in IA.No.766.2026:

4. The respondent bank has filed the counter to IA No.766/2026 contending that the present SA filed by the applicant is time-barred, having been submitted beyond the 45-day limitation period prescribed under Section 17(1) of the SARFAESI Act. The application for condonation of a 15 days delay is not maintainable, as Section 5 of the Limitation Act does not apply to original proceedings under Section 17.

5. The Respondent Bank has duly complied with all statutory requirements, including issuance of demand notice, taking symbolic

possession, and completing a public auction, resulting in the sale and registration of the secured asset in favour of a third party. Despite being aware of these actions, the Petitioner delayed approaching this Tribunal, thereby creating third-party rights which cannot now be unsettled.

6. The Applicant as owner and mortgagor of the property situated in Veppanthattai Taluk, mortgaged as security for the financial facilities granted to M/s. Shanthi Traders. As the principal borrower and guarantor failed to comply with the terms and conditions of the sanction, the loan accounts was classified as NPA on 29.01.2022 in respect of OLCC and Emergency Credit Line Scheme. Consequently, a demand notice dated 29.04.2022 was issued under Section 13(2) of the SARFAESI Act, calling upon the Applicant, M/s.Shanthi Traders and its proprietor as borrowers, and mortgagors to pay a sum of Rs.3,13,43,919/- as on 21.04.2022 within the statutory period of 60 days.

7. As the Demand Notice was not received by the applicant, it is published in two newspapers one in Tamil Daily "Dinamani" and another one in English daily "The New Indian Express" both dated 30.04.2022. In spite of the applicant did not come forward to discharge the dues.

8. The symbolic possession of the secured asset was also taken by the respondent on 30.08.2022 after complying with the mandatory rules. The Possession Notice dated 30.08.2022 issued was willfully returned by the Applicant, same was affixed on the secured asset belonging to the Applicant on 30.08.2022 and was published in two newspapers one in Tamil

"Dinamani" and another one in English "New Indian Express" both dated 03.09.2022.

9. The respondent, after complying with all mandatory procedures, brought the secured asset for sale by public auction by issuing a Tender-cum-Auction Sale Notice dated 04.10.2023, fixing the auction on 25.10.2023. The property was sold to the highest bidder, Mr. D.G.P. Ramprasath, for a sum of Rs. 86,50,000/- and Sale Certificate dated 03.01.2024 was issued in his favour and same was registered as Document No. 12/2024 at S.R.O. Valikandapuram.

10. It is an admitted fact that the petitioner became aware of the conclusion of the sale on 26.10.2023, but filed the SARFAESI application only on 18.12.2023. In this regard, Section 17(1) of the SARFAESI Act prescribes a limitation period of 45 days to challenge measures taken 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 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 measure had been taken.

11. It is submitted that the prayer to condone the delay is concerned, it is pertinent to refer to the decision of the Hon'ble Apex Court in "Bank of

Baroda and Another Parasadilal Tursiram Sheetgrah Pvt. Ltd (AIR 2022 SC 3803), wherein the Hon'ble Supreme Court in para 12 has held as follows.

12."the reason for providing a time limit of 45 days for filing application under section 17 can easily be inferred from the purpose and object of the enactment. In Transcore 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 and third party rights created under the provisions of the act, have remained inconclusive even after a decade."

12. Furthermore, it is no more res-integra that the proceedings under Section 17 of the SARFAESI 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".

13. It is seen that the 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. Kalpana Chakraborty & Others (AIR 2010 CALCUTTA 138)", wherein the Hon'ble High Court has held that since the proceedings under Section 17(1) of the SARFAESI Act are original in nature, Section 5 of the Limitation Act does not apply to such proceedings.

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Therefore, DRT does not have jurisdiction to condone the delay by allowing the application filed under Section 5 of the Limitation Act.

14. 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 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 09.07.2020.

15. It is submitted that the SARFAESI Act is a special enactment designed for expeditious recovery of public money, and the strict adherence to the prescribed limitation period is crucial for achieving its legislative objectives. Any condonation of delay, especially when third-party rights have intervened, would defeat the very purpose of the Act and cause immense prejudice to the secured creditor and the bona fide purchaser.

16. In view of the law laid down by the Hon’ble Supreme Court and various High Courts, the petition filed by the petitioner for condonation of delay is liable to be dismissed *in limine*. Hence, the respondent prays for dismissal of the IA.No.766.2026 in SA.No.247.2026.

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

17. It is manifest from the records that the IA has been filed for condoning the delay of 15 days in filing the SA. No. 247 of 2026. The applicant is the mortgagor has mortgaged the property as collateral security towards the credit facilities availed by M/s. Shanthi Traders.

18. The present SA filed on 26.12.2023 challenging the sale held on 25.10.2023 pursuant to E-Auction Sale Notice dated 04.10.2023, without a delay of 15 days. Hence, the present IA is filed to condonation of delay and IA is filed by the counsel for the applicant contending that the office was affected with termite. Hence, there occurred delay in filing the present SA.

19. It is pertinent to note that the applicant has not clearly mentioned the date of attack of the termite and the measures taken to control termites. Further, the applicant has not made out a case to condone the each days of delay in filing the present SA. However, a mere statement that the delay occurred due to the termite attack without any establish or supporting documents and also without mentioning period of attack of the termites in the office.

20. The respondent bank in their detailed counter have submitted that the applicant failed to establish each days of delay and have relied on the Judgment of Hon'ble Supreme Court and other High Court contending that the Tribunal does not have power to condone the delay U/s.(5) of limitation Act.

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21. 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.]

22. 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.

23. 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 Sale notice dated 04.10.2023, fixing the sale on 25.10.2023 is not filed within the period of 45 days and the same is filed with a delay of 15 days.

24. 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."***

25. 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.

26. 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…."*

27. 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.

28. It is a settled legal proposition that law of limitation may harshly affect a particular party, but it must be applied with all its rigour 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.

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

30. 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 paras 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."

31. Further, the Hon'ble High Court of Kerala has also considered the issue in the case titled ***The Authorised 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.

32. 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.

33. 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 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.*

34. 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."

35. 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."

36. 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 favouring the respondent bank for the recovery of the amount due.

37. 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.

38. 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.

39. 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.

40. 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 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.

41. 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 08th day of May, 2026)*

ANNEXURES

LIST OF DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Documents No.
1.	Sale Notice issued by the respondent bank dated 04.10.2023.	A-1
2.	Letter issued by the respondent bank dated 26.10.2023.	A-2

SCHEDULE OF PROPERTY

Schedule-A (Property Owned by Mr.Selvaraj)

Property-1

In perambalur District, In Ariyalur Registration District, In Valikandapuram Sub Registration District, In veppanthatai Taluk, In Thevaivur South Village, Ayan Punjai Old S.F.No. 553/1A UDR S.F.No.182/1A, Hec 0.08.0 Acre 0.20 Cents vacant site along with the Asbestos Roofed building constructed in it with all its doors, windows,

fittings, electricity service connection etc., having the following four boundaries East of : Trichy to Chennai NH Main road, west of : The Remaining lands of Selvaraj, South of : The Remaining lands of Selvaraj, North of : Akila land.

Schedule-A (Property Owned by Mr.Selvaraj)

Property-2

In perambalur District, In Ariyalur Registration District, In Valikandapuram Sub Registration District, In veppanthatai Taluk, In Thevaiyur South Village, Ayan Punjai Old S.F.No.182/2A, Out of Hec 0.38.50 Ares New Sub Division No.182/2A1,(Old S.F.No.553/2A. Acre 0.95 Cents) an extent of Acre 0.29 Cents (Hec 0.11.78 Ares) land having the following four boundaries: East of :National Highways road and the remaining land of selvaraj in S.F.No.182/1A, South of : Alagammal and Patchiyammal Lands, North of : lands belonged to Sathiya, west of : Akila land.

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

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