IN THE DEBTS RECOVERY TRIBUNAL-2, KERALA

AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH

PRESIDING OFFICER

Dated this the 6th day of May, 2026.

SECURITIZATION APPLICATION No.231/2017

Between

Seethalakshmi,
Aged 61 years,
W/o.Sathyan,
Kannassamveettil,
Chavakkad Taluk,
Mananthala,
Amsom P.O.,
Chavakkad – 680 506. …Applicant .

And

1. The Authorised Officer,
Zonal Office,
Catholic Syrian Bank Ltd.,
Thrissur – 680 002.

2. The Catholic Syrian Bank Ltd.,
Thriprayar Branch.
P.O. Nattika,
Chavakkad Taluk,
Thrissur – 680 566,
represented by its Branch Manager.

3. Suresh Kumar,
Aged 42 years
S/o.Balan,
Nambrath,
Thalppilly Taluk,
Parlikkad Village,
P.O.Vyasagiri – 680 623. (*Died*)

(D3 is deleted from the party array on 30.03.2023)

4. Navarathna Jewellers,
12/379, Vyapara Bhavan,
Chavakkad, Thrissur,
represented by its partner. …Defendants

This Securitization Application having been heard on 07.04.2026 in the presence of Advocate Sri. A.D. Raveendra Prasad for the applicant and Advocate Sri. C.A. Joy for the defendants and stood over to this day for consideration, the Tribunal delivered the following:

FINAL ORDER

Challenging the securitization proceeding initiated by the defendants under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'), the applicant has filed this SA under S.17(1) of the SARFAESI Act seeking relief to declare that the defendants 1 and 2 are not

entitled to take possession of the secured asset, and that the securitization proceeding in question is null and void, together with all consequential reliefs.

Brief facts of the case:

2.1 The applicant, the third party to the securitization proceeding, claims that he purchased 12.84 cents of land in re-survey No.196/7 of Mananthala Village by document No.900 of 1991 and she and her husband are residing over the same by constructing a residential house.

2.2 The 4th defendant, a partnership firm conducting jewellery business and the 3rd defendant is the partner of the said firm. Applicant claims that she purchased gold of ₹.22,00,000/- (Rupees twenty-two lakhs only) on credit from the 4th defendant on the guarantee of 3rd defendant in the year 2009. Being insisted by the 3rd defendant, the applicant executed a document styled as sale deed bearing No.1435/2009 marked Annexure A5 to secure the credit purchase of gold and he assured that on repayment of value of the gold, he will register the said property in the name of the applicant.

2.3. It is learnt subsequently that the defendant Nos.3 and 4 obtained loan from the 2nd defendant bank by mortgaging the property of the applicant. When the applicant raised the issue with the third defendant, he executed an agreement on 09.10.2015 that the entire claim of the bank will be settled and the property will be registered in the name of applicant within three months.

2.4. The defendants No.1 and 2 filed application before the Chief Judicial Magistrate Court, Thrissur in Criminal M.P.5176 of 2016 to take physical possession of the secured assets. The applicant approached the Hon'ble High Court of Kerala in W.P.(C) no.29333/2017(N) challenging such notice which was disposed of by a judgement dated 20.09.2017 permitting the applicant to take appropriate remedy before the Tribunal.

2.5. The applicant also claimed that she filed civil suit O.S.No.801/2016 and OS. No. 1427/2017 before the Munsiff Court, Chavakkad to declare right, title and interest over the subject matter property. In case of dispossession from the secured asset, the applicant will face hardship. Hence, the SA is filed to declare that the defendants 1 and 2 are not entitled to take possession of the secured asset and that the securitization proceeding in question is null and void, together with other consequential reliefs.

3. Defendants 1 and 2 filed written statement denying the averments in the SA and claimed *inter alia* that, the applicant, being a third party to the securitization proceeding, has no right to challenge or interfere with the securitization proceeding. The secured asset was mortgaged by the defendant No.3 on 26.02.2014 by submitting a letter of confirmation on 26.02.2014 marked annexure B1. Due to default in repayment, steps were taken in the securitization proceeding to take possession of the secured asset. Applicant, having alienated the subject matter property, has no legal right to claim interest over the same in this proceeding. Hence the SA, being devoid of any merit, may be dismissed.

4. From the respective case of the applicant and the defendants, the following points are emerged for adjudication in this case:

(i) Whether the applicant has any right to interfere with the securitization proceeding?

(iii) Whether the applicant is entitled to get any relief in this proceeding?

FINDINGS

Points No.(i) and (ii):

5. For the sake of convenience, both the points, being interlinked with each other, are taken up together for adjudication. The applicant executed a registered sale deed in favour of the defendant No.3 by document No.1435 of 2009 registered at Chavakkad Sub Registrar Office. Defendant No.3 created security interest in favour of the defendant Nos.1 and 2 in respect of said property by depositing title deed to secure the loan availed by the defendant No.4 partnership firm.

6. The applicant claims that this document No. 1435 of 2009 was executed by her as a security for purchasing gold ornaments of ₹22,00,000/- (Rupees twenty-two lakhs only) on credit from the 4th defendant partnership firm. She has filed a civil suit bearing O.S.1427/2017 against the said document which is sub judice before the Court of Munsiff, Chavakkad.

7. The question arises whether this Tribunal can adjudicate such claim of the applicant in this proceeding. The scope of adjudication of this Tribunal is very limited. Section 17(2) of the SARFAESI Act prescribes that the Tribunal has jurisdiction to find

out whether the matters referred to Section 13(4) of the SARFAESI Act are in accordance with the provisions of this Act and Rules made thereunder. Except the same, the Tribunal cannot go behind to decide the claim of the applicant that the sale deed executed by her in favour of the 3rd defendant is not a real sale deed and the same was executed to secure the gold ornaments purchased on credit from the 4th defendant. Further the applicant has already filed civil suit in the civil court against the said document who is competent to decide the same.

8. In the judgment of the Hon'ble Apex Court in the order dated 09.01.2025 in Civil Appeal No.1876/2016 in the case of ***Central Bank of India & another vs. Prabha Jain & others*** it is held as follows:

> *"18. Further, the SARFAESI Act is enacted essentially to provide a speedy mechanism for recovery of debts by banks and financial institutions. The SARFAESI Act has not been enacted for providing a mechanism for adjudicating upon the validity of documents or to determine questions of title finally. The DRT does not have the jurisdiction to grant a declaration with respect to the mortgage deed or the sale deed as sought by the Plaintiff. The jurisdiction to declare a sale deed or a mortgage deed being illegal is vested with the civil court under Section 9 of the Code of Civil Procedure."*

In view of this ratio decided by the Hon'ble Apex Court, the tribunal has no jurisdiction or scope to adjudicate upon the disputed claim

of the applicant in respect of the mortgaged property. In view of the ratio decided by the Hon'ble Apex Court, the claim of the applicant is not legally sustainable in this forum and she is not entitled to get any relief. Both the points are answered against the applicants.

Hence it is ordered:-

O R D E R

9. In view of the foregoing reasons, this SA, being devoid of any merit, is hereby dismissed with costs of ₹20,000/- (Rupees twenty thousand only) payable by the applicant to the defendants for causing unnecessary delay in the securitization proceeding.

(Dictated to my Steno, corrected and pronounced by me in the open Tribunal on this the 6th day of May, 2026.)

[SOVAN KUMAR DASH]
PRESIDING OFFICER

Documents on the part of the applicants

Annexures	Date	Particulars of documents
Annexure-A1	-	Copy of Aadhaar Card No.460624378768 of the applicant.
Annexure-A2	06.09.2017	Copy of the recent Telephone bill in the name and address of the applicant.
Annexure-A3	04.02.2016	Copy of the electricity bill in the name and address of the applicant
Annexure-A4	-	Copy of the document No.900/1991 of Chavakkad SRO relating to 12.84 cents of land in Re-sy No.196/7 of Manathala Village in Ward No.22 of Chavakkad Municipality.
Annexure A4(a)	-	Copy of the English Translation of the document No.900/1991 of Chavakkad SRO.
Annexure-A5	-	Copy of the Sale Deed document No.1435 of 2009 of Chavakkad Sub Registrar Office.
Annexure-A5(a)	-	Copy of the English Translation of the document No.1435 of 2009 of Chavakkad Sub Registrar Office.
Annexure-A6	09.10.2015	Copy of the agreement signed between the applicant and the 3rd defendant.
Annexure-A6(a)	09.10.2015	Copy of the English translation of the agreement.
Annexure-A7	14.02.2017	Copy of the temporary injunction

		order in I.A.No.2927/2016 in O.S.No.801/2016 of Chavakkad Munsiff Court.
Annexure-A8	06.07.2017	Copy of the order dismissing I.A.No.2927/2016 in O.S.801/2016 of Chavakkad Munsiff Court.
Annexure-A9	23.02.2016	Copy of the possession notice issued by Bank
Annexure-A10	30.09.2016	Copy of the proceedings in Crl.M.P.No.5176/2016 of Chief Judicial Magistrate Court, Thrissur.
Annexure-A11	31.08.2017	Copy of the order of the Hon'ble High Court of Kerala.
Annexure-A12	20.09.2017	Copy of the Order of the Hon'ble High Court of Kerala.
Annexure-A13	03.10.2017	Copy of the Original Suit No.O.S.No.1427/2017 filed before the Munsiff Court, Chavakkad.
Annexure-A13(a)	03.10.2017	Copy of the English Translation of the Original Suit No.O.S.1427/2017 filed before the Munsiff Court, Chavakkad.
Annexure-A14	-	True copy of the Crl.M.C.No.9391/2025 before the Hon'ble Chief Judicial Magistrate, Thrissur.
Annexure-A15	-	A true copy of the affidavit in Crl.M.C.No.9391/2025 before the Hon'ble Chief Judicial Magistrate, Thrissur.
Annexure-A16	05.11.2025	A true copy of the Order of the Hon'ble Chief Judicial Magistrate, Thrissur in Crl.M.C.No.9391/2025.

Annexure-A17	20.12.2025	A true copy of the order of the Advocate Commissioner.

Document on the part of the defendants

Annexures	Date	Particulars of documents
Annexure-B1	26.02.2014	A true copy of the letter of confirmation executed by the 3rd defendant evidencing the deposit of Sale deed No.1435/2009.

PRESIDING OFFICER

IN THE DEBTS RECOVERY RIBUNAL-2,
KERALA AT ERNAKULAM.

PRESENT: SRI. SOVAN KUMAR DASH
PRESIDING OFFICER

Dated this the 6th day of May, 2026.

S.A.No.231/2017

Between

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Aged 61 years,
W/o.Sathyan,
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Amsom P.O.,
Chavakkad – 680 506. …Applicant

And

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F I N A L O R D E R