DEBTS RECOVERY TRIBUNAL-III, CHANDIGARH

PRESIDED OVER: SH. MRIDULESH KUMAR SINGH

SECURITIZATION APPLICATION NO.269/2025

Date of Institution: 11.09.2025
Date of Decision: 20.05.2026

1. Sh. Deepak Kumar S/o Sh. Mohan Chand, R/o House No.54, Street No.7, Shaheed Sukhdev Singh Nagar, Lohara, Ludhiana
2. Smt. Sudesh Rani W/o Sh. Deepak Kumar, R/o House No.54, Street No.7, Shaheed Sukhdev Singh Nagar, Lohara, Ludhiana

---Applicants

Versus

1. Authorised Officer, Tata Capital Housing Finance Limited, SCO-143, Feroze Gandhi Market, Ludhiana
2. Tata Capital Housing Finance Limited, SCO-143, Feroze Gandhi Market, Ludhiana
3. Tehsildar cum Executive Magistrate, Ludhiana (South)

---Respondents

Argued by: Sh. I.S. Ratta, Advocate for Applicants
Sh. Arman Roop Sharma, Advocate for Respondent Nos. 1 & 2
Respondent No.3 already ex parte vide order dated 31.10.2025

FINAL ORDER

(1) This Securitization Application was filed under Section 17(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Act' for brevity) to set aside notice under Section 13(2) of the Act dated 10.02.2024, notice under Section 13(4) of the Act dated 22.05.2024 and order passed by Learned Chief Judicial Magistrate, Ludhiana dated 07.08.2024.

(2) It was stated in the application that applicants had availed Housing Loan of Rs.22.50 Lacs in the year 2018 from respondent Nos. 1 & 2 for the purchase of the Residential House i.e., Double Storey House Property bearing No. B-31-2088/261/10 situated at Village Lohara, Hadbast No.260, Locality known as Shaheed Sukhdev Singh Nagar, Ludhiana; that

respondent Nos. 1 & 2 had forced and coerced applicants to get the said loan secured by way of mortgage against the above said immovable property i.e., above said dwelling house; that having no choice, applicants had equitably mortgaged their only residential house detailed above by depositing with the bank the title deed pertaining thereto; that after disbursement of the said loan, applicants had regularly paid monthly instalments as per repayment schedule; that thereafter, due to COVID-19 Pandemic, applicants were unable to maintain strict regularity in loan repayments; that despite earnest intentions, some instalments became overdue and the account slipped into NPA; that thereafter, respondent Nos. 1 & 2 had issued notice under Section 13(2) of the Act dated 10.02.2024 but the said notice was not served upon applicant No.2 as per Security Interest (Enforcement) Rules, 2002 (hereinafter referred to as 'Rules' for brevity); that since no demand notice was served upon applicant No.2, therefore applicant No.2 was unable to file objections under Section 13(3-A) of the Act; that applicant No.1 had submitted its objections under Section 13(3-A) of the Act dated 16.03.2024; that respondent Nos. 1 & 2 had given their reply to the above said objections vide reply dated 29.03.2024; that thereafter, respondent Nos. 1 & 2 had issued possession notice dated 22.05.2024 but the said notice was not served upon both the applicants; that thereafter, respondent Nos. 1 & 2 had moved an undated application under Section 14 of the Act in the Court of Learned Chief Judicial Magistrate with a request for taking over the physical possession of the property in question; that the above said application was accompanied by an affidavit with fake attestation dated 30.05.2024; that as per above affidavit one Sh. Kuljit Singh was the deponent; that no documents was filed along with this affidavit to show as to how he was the Authorised Officer of respondent Nos. 1 & 2; that in the said application as well as in the affidavit, details of some property situated at Jalandhar were given whereas possession is sought to be taken of the property situated at Ludhiana; that details of the

property at Jalandhar were given in the said application at three places and in the affidavit at one place in as much as at four different places details of the property at Jalandhar were given; that there was no reference or mention of the property at Ludhiana; that no notice was issued by Learned Chief Judicial Magistrate, Ludhiana to applicants before passing the order dated 07.08.2024 under Section 14 of the Act; that in the said order, at no place reference to the alleged property at Ludhiana has been made; that thereafter, respondent No.3 Tehsildar had issued possession letter on 29.08.2025 almost one year after the order under Section 14 of the Act, without any valid justification or order permitting such delayed action and directed applicant No.1 to handover the physical possession of an unspecified property to be taken on 08.09.2025; that however, no possession was taken by respondent No.3 on 08.09.2025; that just two days after 08.09.2025, respondent No.3 issued another possession letter again bearing the date of issue as 29.08.2025 but directing taking of possession on 12.09.2025; that instead of issuing a fresh possession letter, respondent No.3 had scored off the old date i.e., 08.09.2025 and instead forged and fabricated the fresh date as 12.09.2025; that in light of above facts and circumstances, action of the respondent Nos. 1 & 2 is bad in law and without jurisdiction, null and void. Therefore, it was prayed that the present SA may be allowed.

(3) Reply filed by respondent Nos. 1 & 2.

(4) It was stated in the reply that applicants have not approached this Tribunal with clean hands and suppressed material facts, which are relevant for comprehensive adjudication of issues in question and as such deserves dismissal at the threshold by this Tribunal; that property in question was mortgaged with respondent Nos. 1 & 2 and respondent Nos. 1 & 2 being secured creditor has proceeded against the same under the Act in order to recover the outstanding loan amount by way of liquidating the mortgaged security; that present SA is barred by limitation as the same has been filed after expiry of limitation period of 45 days as per

Section 17 of the Act; that possession notice under Section 13(4) of the Act was issued on 22.05.2024 and hence, the limitation period for challenging the action starts from the said date; that the limitation period of 45 days was expired on 06.07.2024 while the SA was filed on 11.09.2025 much beyond the limitation period, therefore the present SA is barred by limitation and ought to be dismissed with punitive costs; that applicants were unable to explain any sufficient reason for such delay and present SA is not supported with any condonation of delay application; that applicants had availed a Home Loan Facility from respondent Nos. 1 & 2, which was sanctioned vide sanction letter dated 27.07.2018 for an amount of Rs.22,50,000/-; that subsequently, during covid-19 pandemic, applicants had also availed moratorium from April 2020 to May 2020; that applicants were coerced to mortgage the subject property rather the applicants out of their own free will approached the respondent Nos. 1 & 2 seeking Home Loan Facility by mortgaging and creating a security against the subject property; that as per the terms and conditions of Loan Agreement executed between the applicants and respondent Nos. 1 & 2, the loan was to be repaid as per the scheduled equated monthly instalments, however applicants failed to maintain financial discipline and therefore, the subject loan account was classified as NPA on 03.02.2024; that thereafter, respondent Nos. 1 & 2 had issued notice under Section 13(2) of the Act dated 10.02.2024 asking applicants/borrowers to pay outstanding amount of Rs.21,61,671/- due as on 09.02.2024 within 60 days from the issuance of the said demand notice; that the said demand notice was duly served upon both the applicants as evident from the tracking reports annexed as Annexure-5 (Colly); that moreover, perusal of the Memo of Parties of the present SA it is evident that the borrowers are husband and wife and both are residing at the same address, where the said demand notice was duly served, therefore it is incorrect to say that the said notice was not served upon applicant No.2; that the objections dated 16.03.2024 raised by applicant No.1 to the said notice was duly replied by respondent

Nos. 1 & 2 vide reply dated 29.03.2024 and the same was duly served upon both the applicants as per tracking reports annexed as Annexure-6 (Colly); that applicants had failed to discharge their obligation in terms of demand notice issued by respondent Nos. 1 & 2, therefore respondent Nos. 1 & 2 were constrained to issue possession notice dated 22.05.2024 in order to take symbolic possession of the subject property; that the said notice was duly served upon both the applicants and was also affixed on the conspicuous part of the subject property on the same day; that copy of notice along with postal receipts, tracking reports, proof of publication, affixation are annexed as Annexure-7 (Colly); that thereafter, respondent Nos. 1 & 2 approached the Learned Chief Judicial Magistrate under Section 14 of the Act seeking assistance for taking physical possession of the subject property and the Ld. CJM after due consideration allowed the said application vide order dated 07.08.2024; that however, the Tehsildar cum Executive Magistrate has failed to handover the physical possession of the subject property to respondent Nos. 1 & 2, therefore respondent Nos. 1 & 2 approached Hon'ble High Court of Punjab and Haryana seeking issuance of writ of mandamus against authorities directing them to handover the physical possession of the subject property to the respondent Nos. 1 & 2; that Hon'ble High Court after due consideration allowed the writ petition vide its order dated 11.08.2025; that the application along with affidavit filed under Section 14 of the Act were in accordance with law and the same was duly considered by the Ld. CJM while allowing the said application; that even the Hon'ble High Court asked the authorities to comply with the Ld. CJM's order passed on the said application; that as per applicants, description of the property provided in the application under Section 14 of the Act was not correct as property mentioned in the said application is of Jalandhar while the subject mortgaged property is of Ludhiana; that even for the sake of arguments, if the same is to be believed that inadvertently due to clerical error even if the property mentioned in the application was of

Jalandhar then the said application could not have been filed in Ludhiana; that the fact that application was filed in Ludhiana and was allowed by the Ld. CJM, itself sufficient to prove that the description of the mortgaged property was correctly described in the procedural documents relating the loan facility including but not limited to the property registration documents; that applicants in order to support their arguments, mischievously annexed the uncertified copy of the said application and affidavit, which cannot be relied upon; that there is no requirement under the law mandating issuance of notice to borrowers at the stage of allowing the application under Section 14 of the Act; that it is settled law that while passing an order under Section 14 of the Act, no notice/opportunity is required to be given to the opposite party; that pursuant to the order dated 11.08.2025 passed by Hon'ble High Court, letter dated 25.08.2025 was issued scheduling possession for 29.08.2025 as the date of physical possession; that however, Tehsildar cum Executive Magistrate failed to take possession on the said date and therefore, another letter dated 29.08.2025 was issued scheduling possession for 08.09.2025 and 12.09.2025; that however, Tehsildar cum Executive Magistrate again failed to take possession and therefore, another letter dated 12.09.2025 was issued scheduling possession for 15.09.2025 was issued; that all the actions taken by respondent Nos. 1 & 2 strictly in accordance with law. Therefore, it was prayed that the present SA may kindly be dismissed.

(5) After service of notices upon respondent No. 3 no one has appeared on his behalf and no reply was filed. Therefore, respondent No.3 was proceeded against ex parte vide order dated 31.10.2025.

(6) Replication filed by applicants to the reply filed by respondent Nos. 1 & 2, wherein the contents of SA were reiterated and that of the reply to the SA were denied.

(7) I have heard arguments advanced by Sh. I.S. Ratta, Advocate for Applicants and Sh. Arman Roop Sharma, Advocate for Respondent Nos. 1 & 2 and gone

through the record carefully. None was present on behalf of respondent No.3 on that date.

(8) Sh. Arman Roop Sharma, Advocate argued that the present SA is liable to be dismissed being time barred. Therefore, without going on the merits of the case, it may be decided that whether the present SA is within the limitation or not. It was further argued that applicants have not came before this Tribunal with clean hands, therefore applicants are not entitled to get any relief from this Tribunal. It was further argued that possession notice under Section 13(4) of the Act was issued on 22.05.2024 and the period of 45 days was expired on 06.07.2024 but the present SA was filed on 11.09.2025, which is beyond the period of limitation. It was further argued that in the present matter applicants had challenged the letter issued by Tehsildar cum Executive Magistrate, Ludhiana (South) dated 29.08.2025 for taking physical possession of the secured asset on 12.09.2025 (Annexure A-9). It was further argued that the said letter is not measure for filing the Securitization Application as per the Act, therefore the present SA is liable to be dismissed as barred by limitation and applicants were unable to explain any sufficient reason for such delay and no application was filed for condonation of delay by applicants. Therefore, it was prayed that the same may be dismissed on this score only.

(9) *Per contra*, Sh. I.S. Ratta, Advocate argued that notice under Section 13(4) of the Act was issued on 22.05.2024 but the same was not served upon applicants. It was further argued that in the present SA applicants had challenged the letter dated 29.08.2025 issued by Tehsildar concerned and the same was pasted outside the House of applicants on 10.09.2025 (Annexure A-9) for taking physical possession of the property on 12.09.2025. It was further argued that the present SA was filed on 11.09.2025 well within the limitation period and there is no delay in filing the present Securitization Application.

(10) In the SA, applicants had calculated the period of limitation from the possession letter dated

29.08.2025 issued by Tehsildar cum Executive Magistrate, Ludhiana (South) (**Annexure A-9**).

(11) It was admitted by learned counsel for applicants that possession notice under Section 13(4) of the Act was issued on 22.05.2024 (Annexure A-4).

(12) In fact, any person aggrieved by any of the measures referred to in sub-Section (4) of the Section 13 taken by the secured creditor or his Authorised Officer under this Chapter, may make an application along with such fee under Section 17 of the Act, to the Debts Recovery Tribunal having jurisdiction in the matter within 45 days from the date on which such measure had been taken. In sub-Section (4) of the Section 13 nowhere it is provided that a letter issued by Tehsildar cum Executive Magistrate in compliance of order passed by the Magistrate concerned under Section 14 of the Act is a measure. In fact, such letter is an information for the execution of the order passed under Section 14 of the Act. Therefore, limitation to file SA cannot be counted from date of such letter.

(13) Order dated 07.08.2024 passed by Magistrate concerned under Section 14 of the Act was also on record as Annexure A-7. Therefore, the limitation should be counted for filing of the SA from the notice under Section 13(4) of the Act dated 22.05.2024 (Annexure A-4) or from the order dated 07.08.2024 under Section 14 of the Act (Annexure A-7).

(14) **Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002** provides, the time limit of 45 days of filing application under this Section from the date on which a measure had been taken referred to in sub-section (4) of Section 13 taken by the secured creditor or his Authorised Officer. Therefore, this SA was to be filed within 45 days from the date of measure referred to in sub-Section (4) of Section 13 or sale notice.

(15) This shows that this SA was filed beyond the stipulated period of 45 days.

(16) No application was filed by applicants for condonation of delay in filing the present Securitization

Application rather Sh. I.S. Ratta, Advocate has argued that there is no delay in filing the present Securitization Application.

(17) As discussed above, applicants had calculated the time of limitation from the wrong date and in fact, this SA was filed beyond limitation period.

(18) 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. **Hon'ble Supreme Court** in **Transcore Vs. Union of India and Another (2008) 1 SCC 125** has held that the SARFAESI Act is enacted for quick enforcement of the security.

(19) In light of above facts and circumstances, this SA was filed beyond the period of limitation. No reason whatsoever explained for non-filing of SA within the limitation period. No formal application or oral prayer was made to condone the delay in filing the present Securitization Application.

(20) Sh. I.S. Ratta, Advocate further argued that notice under Section 13(2) of the Act dated 10.02.2024 was not served upon applicant No.2 as per Rules. Therefore, applicant No.2 was unable to raise objections under Section 13(3-A) of the Act.

(21) *Per contra*, Sh. Arman Roop Sharma, Advocate argued that notice under Section 13(2) of the Act dated 10.02.2024 was duly served upon both the applicants as per Rules. It was further argued that copy of said notice is Annexure-5 (Colly) to the reply, which shows that the said notice was issued to both the applicants and was duly served upon them as per Rules. Copies of receipts of registered posts along with tracking reports are also annexed as Annexure R-5 (Colly), which shows that notices were served upon both applicants. It was further argued that in fact, applicants had admitted in the SA that notice was received by applicant No.1 and as per Memo of Parties filed along with SA shows that both applicants are husband and wife and are residing at the one and the same address, therefore it is incorrect to say that notice was not served upon applicant No.2.

(22) In light of above factual position, it is established that notices under Section 13(2) of the Act was validly issued and also served upon applicants as per Rules. There is no illegality/irregularity in the issuance of above notice. In fact, it reveals from the Memo of Parties, that both the applicants are husband and wife and are residing at the one and the same address as mentioned in it, therefore it is not believable that notice was not received by one borrower.

(23) Sh. I.S. Ratta, Advocate further argued that possession notice under Section 13(4) of the Act dated 22.05.2024 was not served upon applicants as per Rules.

(24) *Per contra*, Sh. Arman Roop Sharma, Advocate argued that possession notice was issued and served strictly in accordance with law. It was further argued that copy of possession notice along with copies of receipts of registered posts, tracking reports as well as proof of affixation and publication in two newspapers i.e., one in 'Business Standard' (English) and in 'Rozana Spokesman' (Punjabi) are annexed as Annexure-7 (Colly).

(25) In light of above factual position and evidences on record, this Tribunal is of the considered opinion that the possession notice was prepared and served upon applicants as per Rules. Nothing is on record which can show that possession notice was defective or not served according to Rules. Except it, it reveals from record that notice under Section 13(4) of the Act was issued and sent on the same address as was mentioned in the notice under Section 13(2) of the Act. It was admitted fact that notice under Section 13(2) of the Act was served upon applicant No.1 then it may be safely presumed that the notice under Section 13(4) of the Act was also received by applicants.

(26) Sh. I.S. Ratta, Advocate further argued that no notice was served upon applicants before passing the order under Section 14 of the Act by Chief Judicial Magistrate.

(27) *Per contra*, Sh. Arman Roop Sharma, Advocate argued that it is not mandatory to serve the

notice upon applicants by CJM before passing of order under Section 14 of the Act.

(28) In the considered opinion of this Tribunal, there is no provision of issuing of notices to applicants before passing any order under Section 14 of the Act and there is force in the above argument of Sh. Arman Roop Sharma, Advocate.

(29) Though other grounds were taken by the applicants in the SA and few of the same were argued but in light of the above discussion, no adjudication of those grounds is required.

(30) After considering the above facts, circumstances, arguments and evidence on record, this Tribunal is of the opinion that present SA was filed beyond the stipulated period of 45 days and no explanation is on record for condoning the delay. No illegality/irregularity was shown in the proceedings initiated by respondent Nos. 1 & 2 upto the stage of notice under Section 13(4) of the Act as discussed above. In light of above facts, the present SA is liable to be dismissed being time barred.

(31) Accordingly, this **SA is dismissed. Any other IA pending stands disposed of accordingly.**

Record be consigned to record room after due compliance.

Date: 20.05.2026

Pronounced by me in the open Tribunal.

(MRIDULESH KUMAR SINGH)
Presiding Officer,
DRT-III, Chandigarh