IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 15th day of May, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

MA No.142 of 2025
in
SA No.217 of 2025

Mr. M. Praveen,
S/o S. Mithalal,
No.4/7, Jayammal Road,
V. Teynampet,
Chennai – 600 018. …Petitioner

-Vs-

The Authorised Officer,
City Union Bank,
Credit Recovery and Management Department,
No.24-B, Gandhi Nagar,
Kumbakonam – 612 001.

…Respondent

Counsels on record / appeared:

Counsel for Applicant : M/s. V. Anil Kumar

Counsel for Respondent : M/s. Ananda Gomathy

ORDER ON MA 142/2025 In SA No.217/2025

The present Securitization Application [SA] is filed 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].

2. The applicant has filed present application to condone the delay of 129 days in filing the present SA and challenged the Section 14 order dated

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06.03.2025 passed by Ld. CMM, Egmore in Crl.M.P.No.41824 of 2024 which came to the knowledge of the applicant on 06.03.2025 during arguments of the SA No.165 of 2025.

3. It is the case of the applicant that the applicant has filed SA No.165 of 2025 challenging the Sale Certificate dated 03.02.2025, which was pending before this Tribunal and when the SA was taken up for hearing on 06.03.2025, the respondent bank's Officer has stated that a petition was filed under Section 14 before Ld. CMM, Egmore for delivery of physical possession of the property. Upon knowledge of the said proceedings, the applicant has downloaded Section 14 order dated 18.09.2024 in e-courts portal, hence the applicant has got the knowledge of the Section 14 order dated 18.09.2024 only on 06.03.2025.

4. Further the applicant submits that there is a delay of 129 days in filing the present SA which is nor wanton but for only bonafide reasons. The respondent bank has failed to comply with Security Interest Enforcement Rules and may sell the property at throw away price which is lesser than the market value. Hence, the applicant prays to condone the delay of 129 days in filing the present SA.

5. The respondent bank has filed counter to the IA filed by the applicant to condone the delay in filing the present SA and submits that applicant was aware of the Section 14 order passed by Ld. CMM, Egmore in Crl.M.P.No.41824 of 2024. Further the applicant submits that knowledge of Section 14 only came after the hearing of SA No.165 of 2025, which is not

sustainable as the same was already passed. Hence, the claim of the applicant has no knowledge of the Section 14 order in Crl.M.P.No.41824 of 2024 is not sustainable.

6. Further, caveat application was served to the applicant pertaining to order passed by Ld. CMM, Egmore in Crl.M.P.No.41824 of 2024 under Section 14 of the SARFAESI Act. The respondent bank has relied on the Judgment of Hon'ble Supreme Court in ***Gopal Sardar Vs. Karuna Sardar*** wherein it is held that

> *"Section 8 of the West Bengal Land Reforms Act 1955 was an application but it was construed to be a "Suit" in nature and therefore section 5 of the Limitation Act 1963 would not apply. Applying the same analogy, an application under Section 17(1) of SARFAESI Act 2002 cannot be condoned by DRT through the application of Section 5 of the limitation Act 1963 because the application is that of a Civil Suit in nature and not an appeal."*

7. The aforesaid Judgment was upheld in the following Judgments:

i. *Hon'ble Supreme Court in* ***International Asset Reconstruction Company Ltd. Vs. Official Liquidator of Aldrich Pharmaceuticals Ltd.***

ii. *Hon'ble Calcutta High Court in* ***Akshat Commercials Pvt. Ltd. Vs. Kalpana Chakraborty***

iii. *Hon'ble Orissa High court in* ***Bm, Urban Co-operative Bank Ltd. Vs. Debt Recovery Tribunal***

Hence, the respondent bank prays to dismiss the present SA.

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

8. It is discernible from the records that the applicant has got the knowledge of the Section 14 order only on 06.03.2025, which is duly countered by the respondent bank that the applicant has got the knowledge of the Section 14 order dated 18.09.2024 by way of caveat application which was served pertaining to the Section 14 order. Hence, the applicant contention that he got the knowledge of the Section 14 order dated 18.09.2024 only on 06.03.2025 is not sustainable, as the applicant was served with the caveat application even before filing of Section 14 application by respondent bank.

9. 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: -

Section 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.]

10. 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 and late.

11. Thus, it is clear that any person aggrieved by any measures under Section 13[4] is required to approach the Tribunal under Section 17 within 45 days from the date of the measure. Evidently, the present SA challenging the Section 14 order dated 18.09.2024 in Crl.M.P.No.41824 of 2024 passed by Ld. CMM, Egmore is not filed within the period of 45 days and the same is filed with a delay of 129 days.

12. 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."***

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

14. The Tribunal is of the view that DRT has no power to condone delay in an application under Section 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:

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"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…."

15. 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.

16. 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.

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

18. 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.P. Jayan 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*

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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."

19. 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 under Section 17 of the Act.

20. 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.

21. Additionally in the instant matter the applicants have failed to make a case to condone each day's delay by producing any records 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.*

22. 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."*

23. 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."

24. 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.

25. 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 i.e., demand notice demanding outstanding due to be repaid within 60 days.

26. The secured creditor must wait for completion of 60 days and then proceeds further under Section 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.

27. 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.

28. The Tribunal also places reliance on Order dated 27.06.2023 passed in MA [SA]32/2021 by the Hon'ble DRAT Chennai in ***Antony Samy Vs. State Bank of India*** 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 in ***Smt. M. Subathra Vs. State Bank of India***, 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 SARFAESI Act.

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29. It is pertinent to note that the applicant has raised specific contention that they are not aware of the Section 14 order dated 18.09.2024 which is not sustainable and duly countered by the respondent bank that the applicant was served with caveat application. Hence, the contention of the applicant fails and the present IA is only to be dismissed.

30. Resultantly the present MA No.142 of 2025 stands dismissed, consequently SA No.217 of 2025 also stands dismissed. Interim Order granted, if any stands vacated. No order as to cost.

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

(Dictated to PS, transcribed by her, corrected, signed and pronounced by me on this the 15th day of May, 2026)

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