IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this the 18th day of May, 2026

PRESENT: **SHRI SHARANG DHAR UPADHYAY**
Presiding Officer

SA Dy No.2035 of 2025

1. Mahakaya Warehousing Private Limited
Room No.213, 2nd Floor, DD Vyapar Bhavan
K.P. Vallon Road, Kadavanthara
Ernakulam Pin-682020
Represented by its Managing Director
Sushil Vijay Arora

2. Magic Corporation
Door No.55/2130, 2nd Floor, DD Vyapar Bhavan
K.P. Vallon Road, Kadavanthara PO
Ernakulam Pin-682020
Represented by its Partner
N. Premkumar

3. Pleasant Corporation
Door No.55/2130, 2nd Floor, DD Vyapar Bhavan
K.P. Vallon Road, Kadavanthara PO
Ernakulam Pin-682020
Represented by its Partner
Govind C.S.

4. Sparkling Associates
Door No.55/2129, 2nd Floor, DD Vyapar Bhavan
K.P. Vallon Road, Kadavanthara PO
Ernakulam Pin-682020
Represented by its Partner
Govind C.S. …**Applicants**

Versus

1. Indian Overseas Bank
Stressed Assets Management Department
3rd Floor, Central Office Building
763, Anna Salai, Chennai
Tamilnadu, Pin – 600 002
Represented by its Managing Director

2. General Manager
Stressed Assets Management Department
3rd Floor, Central Office Building
763, Anna Salai, Chennai
Tamilnadu, Pin – 600 002

3. Authorised Officer
Stressed Assets Management Department
3rd Floor, Central Office Building
763, Anna Salai, Chennai
Tamilnadu, Pin – 600 002

4. Aerens Goldsouk International Limited
Under Liquidation represented by Official Liquidator
Office of the Official Liquidator, High Court of Delhi
Ministry of Corporate Affairs, Government of India
8th Floor, Lok Nayak Bhawan, Khan Market
New Delhi – 110003

5. Kerala Industrial Infrastructure Development Corporation (KINFRA)
KINFRA House, TC 31/2312, Sasthamangalam
Thiruvananthapuram, Kerala State – 695 010

6. SINO Credit and Leasing Limited
1008, Arunachal Building
19, Barakhamba Road, New Delhi – 110001
Represented by its Managing Director …**Respondents**

ORDERS ON MAINTAINABILITY

1. This petition is filed under Section 17 of the SARFAESI Act to call for the records pertaining to Annexure A5 (E-auction sale notice) and Annexure A-6 (Transfer of NPA Loan Exposures to ARCs & Permitted Transferees in Lot 5 during Q2 of FY 2025-26 under Swiss Challenge / Open Auction Method) and examine the same and: (a) declare that sale or assignment proceeding initiated by the defendants 1 to 3 pursuant to Annexure A5 and Annexure A6 Notice are absolutely illegal and liable to be declared as null and void and

cancel the same and; (b) declare that sale of immovable property covered by Annexure A5 and Annexure A6 notices pursuant to Transfer of Property Act, 1882 are absolutely illegal and liable to be declared as null and void and cancel the same.

2. The Registry has placed the above case for hearing on the question of maintainability.

3. The Registry has raised the following objections:

> "*1. Schedule of properties not mentioned in the SA & Stay petition.*
> *2. Multiple reliefs to be modified & Para 7 to be modified (A5 Sale notice dated 28.08.2025 & A6 Notification for transfer of NPA Loan exposures to ARCs & permitted transferees – under Swiss challenge / open Auction Method – Invitation of EOIs).*
> *3. Limitation needs clarification, whether SA is filed against sale notice or date of sale (As per date of sale notice – A5, SA is barred by limitation)*
> *4. A6 copy only filed.*
> *5. Dispense with production of original of Annexure A5 Notice dated 28.08.2025 (IA Dy No.3221/2025 is filed)"*

Whereas the Counsel for the Applicant has **re-presented with note (marked portion) (Mark 'A', 'B' and 'C' stating as under**:-

> In reply to the objections of the **Registry dated 2.12.2025 the applicant has submitted on 12.12.2025** as follows:
>
> *1. SA is filed pursuant to Annexure A6. Even though A5 is the sale notice, no sale is materialized which can be inferred from the conduct of 1st defendant by issuing Annexure A6*

notice. Annexure A6 notice is nothing but a sale notice inviting EOI (Expression of Interest) from ARCs/SCBs/NBFCs/AIFIs/SFBs/Public at large for transfer of NPA loan exposures through e-auction under Swiss Challenge / Open Auction Method in Lot 5 during Q2 of the FY 2025-26. Hence this SA is filed (on 3.11.25 before DRT-I which was transferred to DRT-II as evident from NTRP receipt) within 41 days of date notified for process of E-bidding which is 23.09.2025 (Page 101 of Annexure A6). Hence there is no delay in presenting the SA.

2. The applicants in the SA are the aggrieved party as described under Section 17 of the SARFAESI Act against the proceedings initiated under Section 13 of SARFAESI Act by the 1st defendant.

3. The locus of the applicant in the SA is that they are the aggrieved party as described under Section 17 of the SARFAESI Act against the proceedings initiated under Section 13 of SARFAESI Act by the 1st defendant.

4. The applicant could be aware of the proceedings only from Annexure A5, A6, which reveals that 1st defendant bank situated and transacted at Chennai District, which is within the jurisdiction of DRT-II, since the debt is below 100 crores.

5. The SA proceedings are initiated on the basis of Annexure A5 and A6 along, further the petitioner / applicant have not sought for any injunction under Specific Relief Act. The pleading means the pleadings in the SA and IA. All documents produced along with the SA construe as the pleadings of the applicant. Hence no separate schedule is necessary.

6. SA is filed pursuant to the procedure established under Security Interest (Enforcement) Rules, 2002.

7. Defect cured and resubmitted accordingly.

8. The SA is original side proceedings, hence no necessity to modify the relief as held by Hon'ble Supreme Court in Mardia Chemicals Ltd. Vs. Union of India.

9. There is no provision under Rule 8(6) to serve notice on aggrieved party. The original sale notice is with 1st defendant. The same can be called for as and when directed by this Hon'ble Tribunal.

10. Defect cured and resubmitted accordingly.

11. Addresses are engrossed pursuant to Annexure A5 and A6 produced along with SA.

12 to 16 Defect cured and resubmitted

17. The Registry has no authority to evaluate the pleadings. Applicant is the master of SA.

18. Urgent IA filed, hence defect cured and resubmitted

19. No injunction sought for in the SA, only seeking stay of all proceedings pursuant to Annexure A5 and A6. Registry has no authority to evaluate the pleadings. Applicant is the master of SA.

Reply submitted on 30.12.2025

Outstanding amount to be corrected

i. *The applicants are neither borrowers nor guarantors in respect of the alleged loan transaction. They are person aggrieved, as contemplated under Section 17 of the SARFAESI Act, 2002, and are therefore entitled to invoke the jurisdiction of this Hon'ble Tribunal. It is specifically pleaded in the Securitisation Application that the Applicants are tenants in occupation of Government land, and their possession is sought to be disturbed pursuant to the impugned measures.*

ii. The defect noted under the caption "Outstanding Amount to be corrected" is wholly misconceived and devoid of any legal basis, as the Applicants are not liable or responsible for the alleged outstanding dues. If at all any amount is mentioned in Annexure A5 notice is Rs.53,76,95,727/-, its specifid in docket page itself, the same can be treated only as a notional valuation for the limited purpose of computation of application fee, and not as an admission of liability.

iii. It is respectfully submitted that the applicants have paid the maximum application fee as prescribed under the relevant provisions of the Security Interest (Enforcement) Rules, 2002. In any event, assuming without admitting that there is any clerical or arithmetical discrepancy in the figure shown, the same stands cured and does not affect the maintainability of the present Securitisation Application.

Relief Needs clarification

A) It is reiterated that the applicants are persons aggrieved by the impugned proceedings initiated by the 1st defendant bank. Neither Annexure A5 sale notice nor any notice issued under Section 13 of the SARFAESI Act was ever served on the Applicants. Moreover, it is evident that no sale could have lawfully materialized, in as much as a fresh Annexure A6 notice was subsequently issued proposing assignment of financial asset / account under Section 5(1) of the SARFAESI Act, which contemplates acquisition of financial assets by assignment agreement, or otherwise.

It is therefore submitted that the defendant bank has surreptitiously and impermissibly clubbed distinct statutory processes, with the sole object of defeating the legislative

intent underlyng Rule 8(6) and 9 of the Security Interest (Enforcement) Rules, 2002. In the instant case, the 1st defendant has purportedly styled Annexure A5 as a notice under Rule 8(6) while simultaneously treating Annexure A6 as containing the terms and conditions of sale envisaged under Rule 9 of the said Rules, which is wholly impermissible in law.

The cause of action pleaded in the Securitisation Application thus constitutes a bundle of facts, as narraged, hereinable giving rise to the present proceedings.

B) Assignment as specified in the Annexure A6 is a legally recognized mode of transfer whereby the assignor divests himself of an existing right, title or interest in property or actionable claim, and the same stands vested in the assignee, who thereafter is entitled to enforce such right in his own name, either by contract or by operation of law.

It is reiterated that Applicants are Aggrieved party to the impugned proceedings initiated by 1st defendant bank Annexure A5. Sale notice or any notice under section 13 of the Act not served on applicant., Moreover inference can be drawn that no sale ought to have materialized since fresh Annexure A6 notice was issued for assignment of assets / account under Section 5(1) of SARFAESI Act, which is meant to acquire financial assets by assignment, agreement, or otherwise. Hence defendant bank surreptitiously clubbed together in order to defeat legislative intention as contemplated under Rule 8(6) and Rule 9 of Security Interest (Enforcement) Rules, 2002. In the instant case the 1st defendant styled Annexure A5 notice as under Rule 8(6) and Annexure A6 terms are condition of sale as specified under Rule 9 of the

Security Interest (Enforcement) Rules, 2002. Moreover, the Cause of action as specified in the Securitisation Application is bundle of facts as aforementioned.

C) In the light of explanation as offered to defendants No. A) & B) there is no necessity to modify the paragraph No.7 in the Securitisation Application

Hence defendants No.2 is liable to be expunged and defects noted stands cured.

Limitation needs clarification

It is reiterated that the defendant bank has surreptitiously and impermissibly clubbed distinct statutory processes, with the sole object of defeating the legislative intent underlying Rule 8(6) and Rule 9 of the Security Interest (Enforcement) Rules, 2002. In the instant case, the 1st defendant has purportedly styled Annexure A5 as a notice under Rule 8(6), while simultaneously treating Annexure A6 as containing the terms and conditions of sale envisaged under Rule 9 of the said Rules, which is wholly impermissible in law.

The Cause of action pleaded in the Securitisation Application thus constitutes a bundle of facts, as narrated hereinabove, giving rise to the present proceedings. Since bank issued Annexure A5 and A6 in laconic way faulted two mandatory directive of Statute, in order to overcome Annexure A5 Order of Winding Up passed the Hon'ble High Court of Delhi. Hence defects No.3 is sustainable and liable to be expunged and defects noted stands cured.

No proof for Assignment of Debt

The documents in question are in the exclusive custody of the 1st defendant bank or the 6th defendant assignor. The applicant submits that these documents are not necessary for the Securitisation Application and will ensure their production as directed by the Tribunal. Accordingly, Defect No.4 stands cured and should be expunged.

SA to be filed with original signatures

The Securitisation Application was filed with original signatures executed in black ink using a micro-tipped pen. At the time of scrutiny on 02 December 2025, the Scrutiny Assistant, Mr. Kishore orally pointed out that certain portions of the signatures appeared grey-scaled upon scanning and requested that the same be made clearer. Significantly should be replaced accordingly, the said observation was not recorded as a formal defect.

In compliance with the said oral direction, the applicants re-submitted the Securitisation Application with clearer signatures, thereby fully curing the said objection. The applicants further submit that they are ready and willing to file any additional affidavit or clarification, if so directed by this Hon'ble Tribunal.

In the above circumstances, Defect No.5 and 8 stands duly cured and the same is unsustainable in law and on facts, and is therefore liable to be expunged.

Translation of Paper publication

The translation of vernacular language in the English is already produced pursuant to Page 88 of the securitization application.

Defect No.6 stands duly cured, and the same is unsustainable in law and on facts, and is therefore liable to be expunged.

Same defects may be carried out in copies of the Respondent bank

Question has some ambiguity. However, Counsel for Applicants are in very hapless position being tied to a whipping post to be beaten with fresh defects and then moved to a pillar to cure defect interminable. The Applicant will undertake same will be cured once Securitisation Application is numbered and also as and when notice is order by the Tribunal to the defendants. Defect No.6 stands duly cured, and the same is unsustainable in law and on facts and is therefore liable to be expunged.

Reply to returns dated 31.12.2025 (Resubmitted on 12.1.2026)

"1. *The Applicant is has filed the SA under Section 17 of SARFAESI with the specific pleading and the corresponding prayers as per the pleadings. The Applicant is the master of the Sa and its pleadings. Hence the Registry cannot direct the Applicant to modify the prayers as held by the Hon'ble Apex Court.*

2. Another SA copy with Applicant's signature replaced, returns complied and resubmitted.

3. A6 is the original document issued by the 2nd defendant and published in the 1st defendant website, downloaded from the website of the 1st defendant."

3. Heard the Ld. Counsel for the Applicant. Perused the records.

4. The Ld. Counsel appearing on behalf of the applicants would submit that the Registry is not empowered to raise such objections.

5. The present SA is filed under Section 17 of the SARFAESI Act, 2002 seeking to challenge Annexure A5 E-auction Sale Notice and Annexure A6 Notification relating to transfer of NPA loan exposures to ARCs and permitted transferees under Swiss Challenge/Open Auction Method. The matter is placed before this Tribunal on the question of maintainability in view of the objections raised by the Registry.

6. The Registry has pointed out, inter alia, the following defects and objections:

(i) Absence of schedule of secured property in the Securitisation Application and connected Interim Application;

(ii) Ambiguity and inconsistency in the reliefs sought and in paragraph 7 of the pleadings;

(iii) Limitation requiring clarification, particularly as Annexure A5 sale notice is dated 28.08.2025;

(iv) Filing of only Annexure A6 copy without supporting material regarding assignment proceedings;

(v) Non-production of proof relating to assignment/transfer of debt;

(vi) Procedural defects relating to signatures, copies and supporting documents.

7. The learned Counsel for the Applicants submitted that the Applicants are “persons aggrieved” under Section 17 of the SARFAESI Act and that the cause of action arose from Annexure A6 proceedings. It was further contended that the Registry cannot compel modification of pleadings and that all defects stand cured.

8. This Tribunal has carefully considered the submissions and perused the pleadings and replies submitted by the Applicants.

9. At the outset, it is to be noted that proceedings under Section 17 of the SARFAESI Act are statutory proceedings and the pleadings therein must disclose with clarity: (i) the measure challenged; (ii) the date on which cause of action arose; (iii) the nature of right allegedly affected; and (iv) the precise relief sought.

10. In the present case, the pleadings suffer from fundamental inconsistencies. While the Applicants seek to challenge Annexure A5 sale notice, they simultaneously contend that no sale had materialized and that the Application is in fact directed against Annexure A6. The reliefs extracted in the Securitisation Application seek declaration that both Annexure A5 and Annexure A6 are null and void, without clearly identifying the statutory measure under challenge under Section 13(4) of the Act.

11. The explanation offered by the Applicants that Annexure A6 constitutes a fresh cause of action is not satisfactorily pleaded. Annexure A6, as described by the Applicants themselves, pertains to transfer/assignment of NPA exposures to ARCs and permitted transferees. However, no assignment agreement, proof of transfer, or foundational material has been produced. Mere filing of a downloaded copy of Annexure A6, without supporting records, is insufficient to sustain the challenge.

12. The objection relating to limitation also survives. Annexure A5 sale notice is admittedly dated 28.08.2025. The Applicants have not clearly disclosed the exact statutory measure challenged or the precise date from which limitation is sought to be computed. The pleadings proceed on contradictory stands and fail to satisfactorily explain how the Application is within the statutory period prescribed under Section 17.

13. Further, the absence of a proper schedule of property in proceedings concerning challenge to SARFAESI measures affecting immovable property is a substantial defect and not a mere procedural irregularity. The contention that documents annexed to the Application themselves constitute pleadings cannot substitute the requirement of clear and complete pleadings.

14. The repeated assertion that the Registry has no authority to raise such objections is misconceived. The Registry is empowered to scrutinize whether proceedings comply with statutory and procedural requirements before

numbering. Where defects go to the root of maintainability and clarity of proceedings, the Registry is justified in returning the papers.

15. This Tribunal is therefore of the considered view that the objections raised by the Registry are valid and sustainable. The defects pointed out have not been satisfactorily cured despite repeated opportunities.

16. Accordingly, the following: -

ORDER

(a) The objections raised by the Registry are upheld.

(b) The Securitisation Application is returned to the Applicants for curing the defects in accordance with law.

(c) The Applicants are at liberty to re-present the matter after rectifying the defects and furnishing necessary particulars and supporting documents within 15 days from today.

(d) No opinion is expressed on the merits of the claims and contentions raised in the proposed Securitisation Application.

Sd/-
(SHARANG DHAR UPADHYAY)
PRESIDING OFFICER
DRT-II, CHENNAI

(Dictated to PS, who typed in the system directly, corrected, signed and pronounced by me in Open Court, on this 18th day of May, 2026)