IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 18th day of May, 2026

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

IA No.2088 of 2025 in
NDN (SA) No.2021 of 2025

G. Velvizhi
W/o Late G. Govinthasamy
No.2-33, Vandaiyankadu
Athivetti East, Thanjavur
Attivetti, Thanjavur
Tamil Nadu – 614 613 **…Petitioner / Applicant**

Versus

The Authorised Officer
Equitas Small Finance Bank
Phase II, 4th Floor, Spencer Plaza
No.769, Anna Salai
Chennai – 600 002 **…Respondent / Respondent**

ORDER

1. This Interlocutory Application is filed by the applicant praying to condone the delay of 22 days in filing the instant SA filed seeking to set aside the impugned Possession Notice dated 23.09.2025

2. The SA is not numbered by the Registry for the reason that the same is filed beyond the period of limitation.

Case of the Petitioner / Applicant

3. The Petitioner approached the respondent for grant of financial assistance and availed Merchant Overdraft facility in the year 2023 for a sum of Rs.5 lakhs and another retail loan of Rs.9 lakhs and to secure

the same Late G. Govinthasamy, the husband of the applicant created mortgage over the schedule mentioned property in favour of the respondent bank.

4. The applicant was making the remittances regularly and some time in lumpsum but the respondent has failed to give due credits to the loan account. The respondent without considering the repayments classified the account as NPA and issued the demand notice under Section 13(2) of the At on 23.04.2025.

5. The respondent issued the impugned possession notice on 23.9.2025 and affixed the same on the secured asset but failed to serve the same on the applicant. Hence the applicant has filed this SA challenging the possession notice dated 23.09.2025.

6. It is submitted that the husband of the applicant died on 10.04.2025 and inspite the same the respondent has issued the demand notice dated 23.4.2025 and possession notice dated 23.09.2025 against the dead person without impleading the legal heirs of the deceased mortgagor. On this ground alone the SA is liable to be allowed.

7. The applicant is a widow and has no one in the family to take care. It is submitted that because of the death of her husband and the grief she could not file the SA within time and a delay of 22 days has occurred which is neither willful nor wanton. No prejudice would be caused to the respondent bank if the same is allowed.

8. The Respondent entered appearance through Ld. Counsel

Point for consideration

9 **Whether the instant application filed for condonation of delay of 22 days delay in filing the above SA is liable to be allowed?**

Answer to the Point for consideration

10. Section 17(1) of the SARFAESI Act, which reads as under, prescribes the period of limitation as 45 days for the purposes of challenging the measures initiated 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 authorised 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**:
>
> [Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.]"

11. Section 17(1) of the SARFAESI Act prescribes the period of limitation as 45 days from the date of measure. Therefore, the applicant ought to have filed the SA within 45 days from the date of the Sale Notice dated 29.10.2020. However, the same has been filed on 10.01.2025 with a delay of 1485 days.

12. In so far as the prayer to condone the delay in filing the SA is concerned, it would be pertinent to refer to the decision of the Hon'ble Apex Court. in "***Bank of Baroda and another Vs. Parasadilal***

Tursiram Sheetgrah Pvt. Ltd (AIR 2022 SC 3803)", wherein the Hon'ble Supreme Court in para 12 had held as follows:-

> 12. " *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 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 had third party rights created under the provisions of the act, have remained inconclusive even after a decade."*

13. Moreover, it is no more res-integra that the proceedings under Section 17 of the SARFAESI Act 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".

14. Moreover, in so far as the applicability of the provisions of the Limitation Act, 1963 is concerned, 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. Kaplana Chakraborty & Others (AIR 2010 CALCUTTA 138)"***, wherein the Hon'ble High Court after a detailed analysis has held that since the proceedings under Section 17(1) of the SARFAESI Act are original in nature like a suit,

Section 5 of the Limitation Act does not apply to such proceedings and therefore, DRT does not have jurisdiction to condone the delay by allowing the application filed under Section 5 of the Limitation Act. It is to be noted that though Special Leave Petitions (Civil) No.17529-31/2010 were filed against the said judgment and leave was granted by the Hon'ble Supreme Court, however, in view of the settlement between the parties, the said appeals were disposed of by the Hon'ble Supreme Court vide order dated 15.12.2021.

15. Similarly, 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 said 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 9.7.2020.

16. Further, in the recent ruling of the Hon'ble Apex Court in the case of "The Property Company (P) Ltd., Vs. Rohinten Daddy Mazda reported in 2026 LiveLaw (SC) 19, it has been held that the Tribunals have no power to condone the delay.

17. Hence on consideration of the above rulings of the Hon'ble High Courts and the Hon'ble Supreme Court, this Tribunal is of the view that there is no enabling provision permitting this Tribunal to condone the delay in filing application under Section 17 of the SARFAESI Act.

18. For the aforesaid reasons, the following:

ORDER

IA No.2088 of 2025 stands dismissed. Consequently, the unregistered SA with SA Dy No.2021 of 2025 stands dismissed. All pending IAs stands closed. A copy of this order be communicated to the parties concerned.

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)