IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 15th day of May, 2026

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

SA No.222 of 2023

S. Natarajan
No.256, Perumbakkam Salai
Anaippadiyhapattu
Tiruvannamalai
Tiruvannamalai District – 606 604 …**Applicant**

Versus

The Authorised Officer
State Bank of India
Stressed Assets Recovery Branch
Red Cross Building, II Floor
32, Red Cross Road, Egmore
Chennai – 600 008 …**Respondent**

Counsel on Record / Appeared

Applicant by : M/s G. Sanjeevi, B. Rajesh & R. Kannan
Respondent by : M/s Shivakumar and Suresh

O R D E R

1. This petition is filed under Section 17(1) of the SARFAESI Act challenging the measures initiated by the respondent bank pursuant to the order of the Learned Chief Judicial Magistrate, Tiruvannamalai in Crl. M.P. No.402 of 2023.

2. The facts leading the impugned order is that the applicant is a wholesale dealer of Vegetables and had availed two housing loan facility from

the respondent bank and has been making the remittances regularly. The applicant in order to expand his business and to provide quality vegetables had purchased huge quantity of first quality ginger from Bangalore but the applicant's competitor purchased second quality ginger and sold them for meager price resulting in the applicant not able to fetch good price resulting heavy loss. The applicant therefore had to close the vegetable wholesale business and was doing real estate business.

3. It is stated that due to COVID-19 pandemic the applicant suffered loss in business and therefore was unable to maintain the payment schedule. The applicant approached the respondent, explained the reason and sought for a settlement but the respondent failed to consider the same.

4. The sale notice dated 29.7.2022 issued by the respondent was challenged by the applicant by filing SA No.425 of 2022 before this Tribunal and this Tribunal by its order was pleased to defer the confirmation of sale subject to conditions. The applicant complied with the first part of the condition within time and another Rs.3 lakhs was deposited belatedly and upon insistence of the respondent the applicant also paid another one lakh resulting in the account coming out of NPA, but the respondent failed to regularize the account and proceeded to issue the sale notice dated 10.1.2023. The applicant challenged the same by filing SA No.47 of 2023 and the same is pending adjudication.

5. While so, the respondent bank filed an application before the Ld. Chief Judicial Magistrate in Crl. M.P. No.402 of 2023 and obtained the order dated 17.04.2023 in a illegal manner. The respondent had suppressed all material facts file the application under Section 14 before the Ld. CJM, Tiruvannamalai and obtained the impugned order.

5. The applicant filed the order of the Ld. CJM Tiruvannamalai dated 17.4.2023 in Crl. M.P. No.402 of 2023 and the Notice from Advocate Commissioner dated 16.5.2023.

6. The following grounds are urged in the SA: -

(a) The applicant's account was never been a sub standard, doubtful or loss account at any point of time and hence the classification of account as NPA is contrary to the guidelines of RBI.

(b) The amount shown in the demand notice is mischievous and imaginary not borne out of records.

(c) The demand notice is not served on all the borrowers thereby depriving the rights of the applicant under Section 13(3-A) of the SARFAESI Act.

(d) The possession Notice is not published in newspapers as contemplated under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002.

(e) The amount mentioned in the statutory notices are incorrect.

(f) The respondent failed to publish, affix the possession notice as mandated under Rule 8(1) of the Rules.

7. Upon notice, the defendant bank filed its counter denying the averments in the SA and submitted that the SA is liable to be dismissed. It is stated that the applicant had approached the respondent's RACC Thriuvannamalai Branch for availing Housing Loan, the respondent's RACC branch, Thriuvannamalai had sanctioned Housing Loan, initially sanctioned Housing Loan of Rs. 8,53,308/- vide Arrangement Letter dated 23.01.2019 in Account No.38207819934. the applicant had executed the Memorandum of Loan Agreement for Home Loan on 23.01.2019 agreed to repay the loan at equated monthly installments of Rs.8,690/- with interest at the rate of 8.95% p.a.,

8. It is stated that the applicant had requested the respondent's RACC Thiruvannamalai Branch for availing additional Home Loan, the Respondent's RACC Thriuvnannamalai Branch had sanctioned Home Loan of Rs.16,00,000/- vide Arrangement Letter dated 25.01.2019 in Account No.38212570219, the applicant had executed Loan Agreement dated 25.01.2019 agreeing to repay the said loan in 180 monthly installments at equated monthly installments of Rs.16,375/-. The applicant had voluntarily deposited the title deeds for creation of equitable mortgage with the applicant, pertaining to the property more fully described in the schedule to the SA and executed Memorandum of Deposit of Title Deeds dated 14.02.2019 Reg. Doc. No.1304 of 2019 as

security for the repayment of all monies or any money due to this respondent.

9. It is stated that after availing the said loan, the applicant had committed default to repay the monthly installment of the said Loan since December, 2019. The applicant have failed to service the interest and principal due under the loan account. Hence, the applicant's account was declared as NPA on 31.03.2020as per the guidelines issued by RBI. The applicants has not taken any steps to regularize the account. Subsequently, the account migrated to the Stressed assets recovery Branch, of the respondent. The Respondent Bank left with no other alternative but to issue a Demand Notice to the applicant under Section 13 (2) of SARFAESI Act on 03.07.2021. The notice was duly served to the applicant. The applicant had not replied the said Notice to this respondent.

10. It is stated that since nothing was forthcoming from the appellant to regularize the account the respondent through their Authorized officer has initiated further steps under the SARFEASI Act by issuing a possession notice under Section 13(4) of the SARFAESI Act read with Rule 8 on 13.01.2022 in respect of the Schedule property, the said possession Notice was duly served by the applicant. The Respondent Bank had affixed the possession notice on 13.01.2022 and also published the Possession Notice on 14.01.2022 in Villupuram edition in one issue of English daily viz., the New Indian Express and in one issue

of Tamil daily viz., Dinamani and has thus followed all the procedures as prescribed under SARFAESI Act.

11. It is stated that thereafter the respondent issued Sale Notice dated 25.02.2022 for E-Auction Sale fixed on 13.04.2022, after obtaining the valuation the valuation of the properties from the approved valuer. The sale Notice has been sent to the applicant, this Respondent had given The sale notice was also affixed on the secured asset on 25.02.2022. The sale Notice has been duly published in the newspapers on 04.03.2022 in one issue of English daily viz., The New Indian Express and in one issue of Tamil daily viz., Dinamani in Villupuram Edition.

12. The applicant had filed S.A. No.425 of 2022 before this Hon'ble Tribunal to challenging the above sale Notice dated 29.07.2022 and this Tribunal by order dated 22.8.2022 stayed the confirmation of sale subject to conditions but the same was not fully complied with. However, the sale has not taken place for want of bidders, hence the said appeal became infructuous and hence the SA was dismissed as infructuous by this Tribunal on 14.02.2023.

13. The respondent Bank issued fresh sale Notice dated on 10.01.2023 and fixing the sale on 10.02.2023 and the said notice duly served to the applicant, affixed on the premises on 12.01.2023, duly published in the newspapers on 14.01.2023 in one issue of English daily viz., "The New Indian Express" and in one issue of Tamil daily viz., "Dinamani" in

Villupuram Edition. However, as the sale did not take place for want of bidders, the said SA has become infructuous.

14. Thereafter this Respondent Bank has filed a petition under Sec.14 of SARFAESI Act, before the Chief Judicial Magistrate, Thiruvannamalai, for taking physical possession and the Ld. CJM, had appointed Advocate Commissioner for taking physical possession of the schedule property vide order dated 17.04.2023. The Advocate Commissioner had sent a Notice dated 16.05.2023 to the applicant for taking physical possession of the schedule property and the applicant had filed the present application without any valid ground. Further, interim order granted by this Tribunal on 23.5.2023 was not complied with by the applicant.

15. The applicant failed to service the interest and principal due under the loan account, and hence, the applicant's account was declared as NPA on 31.03.2020 as per the guidelines issued by RBI. The applicant's account became NPA and stands transferred to the Stressed Assets Recovery Branch (SARB), Chennai. Hence, the regularization of the account of the applicant is not possible at this stage.

16. It is incorrect to state that the respondent suppressed the payment made by the applicant before the CJM, Tiruvannamalai, It is submitted that the respondent has followed the guidelines, norms and procedures of RBI nor followed the procedures of SARFAESI Rules before

approached the Ld. CJM Tiruvannamalai, for taking physical possession of the schedule Property. The applicant has no intention to settle the dues and seeking intervention only to delay the recovery process.

17. The grounds in the appeal are without any basis and the same is liable to be rejected. it is incorrect to state that the applicant account deliberately inactive by the Bank. It is submitted that the applicant failed to repay the loan account and committed default. Hence the applicant's account was declared as NPA on 30.03.2020 as per the guidelines issued by RBI. The respondent had issued Demand Notice to the applicant under Section 13 (2) of SARFAESI Act on 03.07.2021. The notice was duly served to the applicant. The notice was duly served on the applicant. The applicant had not replied the said Notice to this respondent.

18. It is incorrect to state that the authorised office has not followed the Rule 8(1) of the SIE Rules. The respondent had issued Possession notice on 13.01.2022 to the applicant, the same was was affixed in the said premises on 13.01.2022 and was also published in newspapers on 14.01.2022.

19. It is incorrect to state that the respondent had compounded the penal interest in the loan account. The Respondent Bank had affixed the possession notice on 13.01.2022. The respondent has clearly mentioned the outstanding dues as 02.12.2022 is Rs.17,92,646/- in the

Possession notice. It is submitted that the respondent has followed the provisions of the Act and the Rules made thereunder while approaching the Ld. CJM Tiruvannamalai, for taking physical possession of the schedule Property.

20. It is stated that the applicant has no intention to settle the dues and seeking intervention only to delay the recovery process. No legally valid ground has been made by the applicant questioning the validity of the Hon'ble CJM order. The applicant had not made out any valid ground for restraining the respondent bank from taking physical possession of the Schedule property as per order dated 17.04.2023 passed by the Hon'ble CJM Tiruvannamalai bearing CMP.No.402 of 2023 which has been done following all the procedure laid down under the SARFAESI Act and the Rules made thereunder.

21. The defendant bank filed various documents viz., the demand notice dated 03.07.2021 along with postal acknowledgement, Possession Notice dated 13.01.2022 along with postal acknowledgements, proof of affixture of possession notice, copy of paper publication in "Dinamani" & "The Indian Express", the affidavit filed by the respondent before the Chief Judicial Magistrate.

22. The matter is heard. In the wake of available material on record, the following points arise for consideration in the present SA:

"Whether the impugned order of District Magistrate and District Collector, Tiruvannamalai suffers from any illegality or impropriety rendering it void in law?"

Answers to Point for Consideration

23. It is to be noted that the Hon'ble Supreme Court in "***NKGSB Co-operative Bank Limited Vs. Suber Chakravarty"*** and "***R.D. Jain and Company Vs. Capital First Limited CA 1755 of 2022 dated 27.07.2022***" ruled that no adjudicatory powers are vested while deciding the application under Section 14. In the matter of ***"Indian Bank Vs. Vishalakshi and Another CA 6295/2015 dated 23.09.2019"***, the Hon'ble Supreme Court had further held that the proceedings under Section 14 is a procedural step and purely an administrative order and there is no adjudicatory process involved. Keeping in mind the above rulings, this Tribunal can only examine whether there was compliance of the provisions by the defendant bank before the Learned CMM as mandated under Section 14(1) of the SARFAESI Act.

24. As per Section 14(1) of the SARFAESI Act, on a request being made by the by the secured creditor, the Chief Metropolitan Magistrate or the District Magistrate as the case be take possession of such asset and documents relating thereto and forward such assets and documents to the secured creditor. The financial institutions are to declare under the affidavit the aggregate sum of financial assistance and dues payable as on the date of the application. It should be averred that the borrower / guarantor having created security interest over the property and that the

borrower had committed default; upon such default the account must have been classified as NPA. It is also mandatory to aver in the affidavit regarding the issuance of demand notice, the reply thereof and the response of the secured creditor and that the borrower had not made any repayment and therefore entitled to take possession and that the other provisions of the Act have been complied.

25. This Tribunal is aware of the Ruling of the Hon'ble Supreme Court **in "Authorised Officer, Indian Bank Vs. Vishalakshi and another CA No.6295/2015 disposed on 23.09.2019"** holding that the spirit of Section 14 of the SARFAESI Act is only a procedural step. It is purely an administrative order and no adjudication is involved. The orders of the Ld. CMM / DM is only an aid to the proceedings initiated u/s.13(4) of the Act.

26. It is only to be looked into whether the provision of section 14(1) of the Act is complied or not. From the impugned order it is seen the necessary details to be furnished u/s.14(1) of the Act has been complied. The Ld. CMM at para 10 of the impugned order had come to a finding that *"Hence perusal of all the relevant records and documents submitted by the authorized officer shows that it is a fit case for proceeding u/s 14 of SARFAESI Act, 2002"* , Whether this finding is supported by the proper documents is also answered by the Ld. CMM.

27. However, this Tribunal has also considered the documents filed by the defendant. This includes the documents produced at S. No. 1 which is the demand notice dated 03.07.2021 and the postal acknowledgement, the same clearly reveals that the demand notice is duly served on the applicant.

28. As regards the contention of the applicants that the respondent has failed to comply with the Rule 8 (1) and 8(2) of the Security Interest (Enforcement) Rules, 2002 is concerned the respondent has filed the possession notice dated 13.01.2022 and the postal acknowledgements at Sl. No.3 (Pages 15 to 17), the proof of affixture of the possession notice at Sl. No.4 (Page 18) and the proof of publication of the possession notice in two newspapers viz., Dinamani and The Indian Express at Sl. No. 5 (Page 19 & 20) which clearly evidence that the possession notice has been served, published and affixed on the secured asset. Therefore, this ground of the applicants fall to the ground.

29. Further, the applicants have not urged any grounds with regard to non-compliance of provisions under Section 14(1) of the SARFAESI Act by the secured creditor.

30. Therefore, in the absence of any allegations regarding non-compliance of the provisions of Section 14(1) of the Act and documentary evidence produced by the defendant bank, this Tribunal is unable to find any

illegality, impropriety or otherwise to set aside the impugned order. Hence the following:

ORDER

(i) The SA stands dismissed. The orders of the Ld. Chief Judicial Magistrate, Tiruvannamalai dated 17.04.2023 is hereby affirmed. All other pending IAs thus stand disposed of.

(ii) Parties to bear their own costs.

(iii) A copy of this order be communicated to the parties concerned.

(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 15th day of May, 2026)