IN THE DEBTS RECOVERY TRIBUNAL
VISAKHAPATNAM
Present :- SHRI KRISHNA GOPAL DWIVEDI,
PRESIDING OFFICER
Dated 15th June, 2026

S.A. No. 208 of 2024

Between
Penumarthi Rama Krishna Chowdary, D.No. 2-10-33/1, Kondapallivari veedhi, Mandapet, East Godavari District

.....Petitioner / Applicant

And

1. M/s. IKF Finance Limited, Rep. by its Authorised Officer,D.No. 40-1-144, Corporate Centre, M.G. Road, Vijayawada- 520010

2. Mr. Nikkini Gopal Krishna, S/o. Satyanarayana, D.No. 4-1-37, Sri Bikkina Nursing Home, Main Road, Mandapeta, East Godavari District- 533 308

3. Mr. Reddi Radha Krishna, S/o. Surya Rao, D.No. 8-4-16/1, Nalamvariveedhi, Mandapeta, East Godavari District- 533 308

...... Respondents

Present:

Ld. Counsel for the Applicant	:	Shri S. Arun Dev
Ld. Counsel of Respondent No.1	:	Shri CVSL Raju

ORDER

1. The applicant has filed the present appeal under Section 17(1) of SARFAESI Act 2002 on 23.04.2024.

2. As per neat copy of SA dt. 22.05.2026 applicant is the proprietor of M/s Kalayni Transport and the Applicant in the name of his business, availed three loan facilities from the Respondent. The Applicant mortgaged vacant land in an extent of Ac.0.20 cents covered by Sy.No. 603/2, situated at Mandapeta Municipal area, Mandapeta Mandal, East Godavari District, Nearest Door No. 31-1-26 within the limits of Mandapeta Sub Registry. The applicant has further submitted that due to Covid-19, the applicant could not generate any income at

that time, the loans were reschedule by the Respondent FI. The applicant paid the loan till September 2023. Due to policy of State Government applicant could not earn money and the Respondent FI classified the account of the applicant as NPA illegally and issued Sec. 13(2) notice and also issued possession notice on 27.02.2024 stating that outstanding amount of Rs. 79,59,588/-. Respondent FI issued E-auction sale notice dt. 08.04.2024 scheduling the E-auction sale date as 14.05.2024 that sale is bad under law. RFI without following the process filed application under Sec. 14 of the SARFAESI ACT and demanded to take physical possession of the schedule property. Applicant has paid the amount of Rs. 52,68,573/- only for the above loans. The amount shown by the RFI is illegal. Advocate Commissioner notice dt. 23.05.2025 is served through postal service on 24.05.2025. The advocate commissioner notice is bad under law. Advocate Commission could not take physical possession of the property on 30.05.2025. The applicant is trying to pay the loan amount. The Respondent is keen to take physical possession of schedule property. The schedule property is not a secured asset and comes under the exempted properties. It is an Agricultural land. The Respondent FI has not shown the outstanding amount in the E-auction sale notice correctly and failed to show exact figures. The schedule property is mortgaged to secure the SME loan. The value of the schedule property is undervalued. The Respondent FI has not issued Rule 8(6) notice but fixed the date of auction on 10.10.2025 by issuing notice dt. 23.06.2025. RFI Failed to affix the notice on the schedule property. RFI has not up loaded the details on the website. RFI sold the schedule property on 10.10.2025 in pursuance of sale notice dt. 23.03.2025 which is undervalued in the fixation of reserve price. The RFI sold the property fixing the Reserve price Rs. 1,15,00,000/- . RFI failed to obtain fresh valuation and fixed the Reserve price against the proviso of Rule 8(5) and Rule 9(1). The Respondent FI failed to register the details of the secured asset with the Central Registry (CERSAI). The E-auction sale notice dt. 23.09.2025 is not served on the applicant as per law. The RFI has not affixed the sale notice at property. Respondent FI failed to issued Rule 8(6) notice. Respondent FI has violated Rule 8(5) and 8(7) of Security Interest (Enforcement) Rules 2002. Respondent FI affix the sale notice at the property. The property value is not obtained by RFI properly. The description of the property is not mentioned correctly.

3. The applicant has prayed for the following relief in the SA:-

(a) To declare that the sale auction notice dt. 08.04.2024 scheduling the e-auction sale date as 14.05.2024 issued by the respondent is illegal in so far as it relates to schedule property as the Respondent has no security interest over the same and consequently all the actions initiated by the Respondent as illegal.

(b) To set aside the sale conducted on 10.10.2025 in pursuant of sale notice dt. 23.09.2025 with regard to the schedule property being illegal.

© To set aside the sale proceedings initiated by the Respondent FI in pursuance of the E-Auction sale notice dt. 23.09.2025 fixing the auction on 10.10.2025 in respect of application schedule property as illegal and against the provisions of the SARFAESI Act, 2002 and rules framed there under the law and to cancel the sale certificate issued by the respondent bank to the auction purchaser

4. The applicant has filed the following documents with SA:-

(a) Possession Intimation Notice dt. 27.02.2024
(b) Notice U/Sec. 8(6) of SARFAESI Act dt. 08.04.2024
© Calculation Sheet
(d) Register documents of schedule property.

5. The applicant has filed Market value Assistance certificate with memo dt. 09.06.2026

6. The applicant has referred the Judgment of Hon'ble Chairperson of DRAT, Kolkata passed in the case of "***The Authorised officer, Indian bank Vs. M/s. VMS Ferro Alloys Private Limited and Others***"

7. The Respondent FI filed reply on 30.06.2025. The Respondent FI has prayed to dismiss the SA with costs.

8. The Respondent Bank has denied all the allegations alleged by the applicants. As per reply the applicant availed credit facilities from this Respondent FI and petitioner being the Owner of the property created mortgage in favour of this Respondent bank towards security for the credit facility sanctioned to her which was also admitted by the Applicant. The Respondent further submits that as

the applicant failed to repay the amount as per the sanctioned terms the Account of the Principal borrower became NPA on 29-06-2022 as per RBI guidelines and having no option this Respondent Bank has initiated proceedings under SARFAESI Act and issued Demand Notice dt.04-12-2023 to the petitioner herein as well as to the other borrowers with a demand to pay the entire amount due with accrued interest within 60 days and as the petitioner intentionally avoided to receive the demand notice the same was published in two news papers dated 16-12-2023 one in Indian express and another in PrajaSakthi as per the provisions of SARFAESI Act. The respondent further submit that neither the applicant nor the other borrowers having received the Demand Notice failed to liquidate the debt due as such this Respondent has taken possession of the property on dt:27-02-2024, served the same to the Applicant herein, affixed the same on the schedule property and also published the same into two News Papers as per the provisions of SARFAESI Act. The Respondent approached the Honorable CJM Court seeking assistance for taking physical possession of the property under Section 14 of the SARFAESI Act by filing Crl.M.P. 186/2025, the Hon'ble Chief Judicial Court after perusal of all the records, passed an orders in the said Crl.M.P. and appointed an Advocate Commissioner with a direction to hand over physical possession of the property to this Respondent FI and accordingly physical possession was handed over to this respondent. The Respondent published the auction notice în news papers but could not succeed due to want of bidders as such after taking fresh valuation of the property, issued Rule 9 (1) notice to the petitioner herein which was duly served on him and published the auction notice in two news papers fixing the date of auction on 30-06-2025. This respondent further submit that it has affixed the auction notice on the schedule property.

9. The Respondent Bank has also filed the following documents with counter dt. 30.06.2025

(a) Certificate of NPA dt. 30.11.2023
(b) Demand Notice along with Acknowledgments dt. 04.12.2023
(c) Demand Notice English paper publication dt. 16.12.2023
(d) Demand Notice Telugu paper publication dt. 16.12.2023
(e) Possession Notice along with Acknowledgments dt. 27.02.2024
(f) Possession Notice Telugu Paper publication dt. 01.03.2024
(g) Possession Notice English paper publication dt. 01.03.2024
(h) Affixture of Possession Notice

(i) Valuation Report dt. 19.03.2024
(j) 30 days Notice along with acknowledgments dt. 08.04.2024
(k) Sale Notice along with acknowledgments dt. 13.06.2025
(l) Sale Notice English paper publication
(m) Sale Notice Telugu Paper publication
(n) Affixture of Sale Notice
(o) Statement of Account dt. 11.06.2025

10. The Respondent FI has filed the following documents with counter dt. 08.12.2025

(a) Valuation Report dt. 19.03.2024
(b) 30 days Notice along with postal receipts dt. 18.08.2025
© Sale Notice along with postal receipt dt. 23.09.2025
(d) Affixture of Sale Notice
(e) Auction notice paper publication (English)
(f) Auction Notice paper publication (Telugu)
(g) Sale confirmation

11. The Respondent Bank has also filed the following documents with counter dt. 18.05.2026

(a) Order in IA 4183/2025 dt. 09.12.2025
(b) Order in IA 4257/2025 dt. 05.05.2026
(c) Cersai Certificate

12. Vide order dt. 05.05.2026 R2 and R3 are debarred from filing counter and reply.

13. Heard the Ld. Counsel of applicant and Ld. Counsel of R1. No one appeared on behalf of R2 and R3. The Ld. Counsel of the applicant and Ld. Counsel of the Respondent No.1 also filed written arguments, which is on record. I have heard the Ld. counsel of both the parties and perused the record. After perused of the statement of account filed by RFI from Pg 52 to 63 I find that RFI has rightly classified the account of the applicant as NPA. The total receivables as per RFI was Rs. 85,03,295.15ps. After classification account as NPA, RFI has send demand notice dt. 04.12.2023. RFI has filed copy of acknowledgments and paper publication of demand notice. From which it is clear that demand notice could not serve then the Respondent FI published the notice in two Newspapers i.e Praja Sakthi- Telugu Newspaper and Indian Express- English Newspaper. Hence as per law demand notice is served on the applicants.

The Respondent has issued possession notice on 27.02.2024. The respondent has also filed postal receipts and acknowledgments of this notice. As per acknowledgment this notice is served on the borrowers/mortgagors. This notice is published in Telugu and English Newspapers. As per photographs this notice is affixed on the schedule property. As per applicant the Respondent FI has filed petition under Sec. 14 of SARFAESI Act and as per order Ld. Advocate Commissioner has given notice which is bad under law. The Respondent FI is trying to take physical possession of the schedule property.

After above discussion I find that demand notice, possession notice is as per law. The Respondent has classified the account as NPA which is as per law. Hence as per Sec. 14 of the SARFAESI Act the Respondent FI has power to file petition before the Ld Chief Judicial Magistrate/District Magistrate Court and as per Sec. 14 Ld. CJM/DM is bound to pass order and appoint an Advocate Commissioner / Officer to take physical possession of the property. Hence order of Sec. 14 of SARFAESI proceeding is as per law and as per order of Ld. CJM the Ld. Advocate commissioner has issued notice. Hence this SA on the point of Sec. 14 of SARFAESI is as per law and Sec.14 proceedings is legal.

14. RFI has taken valuation Report dt. 19.03.2024 from the approved valuer. As per approved valuer the value of the schedule property is Rs. 2,32,32,000/-, Realizable value- Rs. 2,09,08,800/-, distress/ forced value of the schedule property – Rs. 1,74,24,000/-.

15. As per written arguments filed by the RFI this respondent tried to sell the property four time i.e 1st Auction date was 14.05.2024 and in that auction the Respondent bank fixed the Reserve price Rs. 2,10,00,000/- but that auction could not succeed due to want of bidders. 2nd Auction date was 17.10.2024 and that auction Reserve price was Rs. 1,90,00,000/- by reducing 10% of the reserve price as per circular but could not succeed due to want of bidders. The 3rd Auction date was 25.03.2025 and that auction could not succeed, in which the Reserve price was Rs. 1,75,00,000/-. That 3rd auction was also failed due to want of bidders. The 4th Auction dt. was 30.06.2025 and in that auction the Reserve price was Rs. 1,15,00,000/- but in that auction also no bidders were present.

The applicant has filed copy of sale deed dt. 06.05.2013. On that date Shri Penumarthi Rama Krishna Chowdary purchased this property from Smt Obilineni Surya Kumari and 02 Others for Rs. 19,36,000/-. At the time of purchase as per sale deed there was no coconut trees, betelnut leaf's, orange trees and there are no granites, Minerals and fish ponds. As per vendor and Vendee the highest value of this property on 06.05.2013 was Rs. 19,36,000/-.

16. As per respondent, RFI has send last sale notice dt. 23.09.2025 and fixed the auction on 10.10.2025. RFI has filed copy of sale notice dt. 23.09.2025, and its postal receipts. As per photographs this notice is affixed on the schedule property. This notice is published in Indian Express- English Newspaper on 23.09.2025 and Telugu Newspaper. The date of auction as per notice is 10.10.2025. It is 5th auction. Hence as per rule there should be gap of 15 days and in this case there is clear gap of 15 days. In this sale notice the Reserve price of the schedule property is Rs. 1,15,00,000/-. As per auction details the highest bidders are Mr. Bikkina Gopala Krishna and Mr. Reddiradha Krishna. The Respondent has sold the vacant land of Ac. 0.20 cents equivalent to 968 Sq.Yds out of Ac. 0.81 cents on the Northern side out of full Ac. 1.00 cents in S.No. 603/2, situated at Mandapeta Municipal Area, East Godavari District nearest door No. 31-12-26 within the limits of Mandapeta Sub Registry being bounded by

East : Land of Bikkina Chinna
South: Land of Reddy Radha Krishana
West : Land of Mallipudi Raju
North : Road

17. The Ld. Counsel of the applicant refer the Judgment of Hon'ble Chairperson of DRAT, Kolkata passed in appeal No. 75/2022 arising out of SA No. 237 of 2017 in DRT, Visakhapatnam. As per Judgment " *In case of subsequent sale, authorized officer is required to issue 30 days notice under Rule 8(6) and thereafter 15 days notice under proviso attached to Rule 9(1)"* but this Judgment is passed by Hon'ble Chairperson on 13.05.2024.

After that the Hon'ble Supreme Court of India passed order in Civil Appeal No. 12174 of 2025 in the Case of M. Rajendran & Ors. Vs. M/s. KPK Oils and Proteins India Pvt Ltd & Ors. at para 169 of the above Judgment Hon'ble Supreme Court of India have laid down the principle as follows:

"169. From the above discussion, we have no hesitation in holding the following:—

(i) Rule(s) 8(6), the Proviso thereto, Rule 8(7) and Rule 9(1) of the SARFAESI Rules respectively do not speak of any separate or distinct notice of sale that is required to be issued by the secured creditor for the transfer of the secured asset by way of lease, assignment or sale in accordance with any of the methods enumerated in Rule 8(5).

(ii) The different manner in which the notice of sale has to be served, caused, published, affixed, uploaded as stipulated in Rule (s) 8(6) and 8(7) of the SARFAESI Rules respectively, do not constitute separate notices of sale by themselves. They are part and parcel of one single composite intended "notice of sale" of the secured asset by the secured creditor, by any of the mode of sale listed in Rule 8(5). All of the aforesaid rules are concerned with a single composite "notice of sale", and the only distinction between the said rules, is the manner in which the said "notice of sale" has to be given, on the basis of which the relevant rule or rules are applicable, as the case may be.

(iii) Similarly, the stipulation under Rule 9(1) of a thirty-day gap between the date of publication of notice of sale and the date of actual sale does not impute a distinct characteristic to the public notice in the newspaper in contrast to the notice of sale that is served to the borrower. As is evident from Appendix IV-A to the SARFAESI Rules, the public notice of sale in newspaper as-well the notice of sale served to the borrower are one and the same, for the purpose of Rule 9(1).

(iv) The embargo enshrined under Rule 9(1), that no sale, in the first instance shall take place before the expiry of thirty-days, would be reckoned from the date of issuance of the "notice of sale", which would include both the public notice of sale in the newspaper and the service thereof to the borrower, whichever is later.

(v) The notice of sale both under Rule 8(6) read with Rule 9(1) respectively can be served as-well as published in the newspaper, simultaneously on the same date. All that is required under Rule 9 (1) is that a thirty-day gap is maintained between the date the notice of sale is served, affixed and published, whichever is later,as the case may be, till the date of actual sale."

It is 5th sale. Hence as per proviso 15 days gap is sufficient and RFI has given 15 days as per principle laid down by Hon'ble Supreme Court of India. There is no need of separate notice of Rule 8(6) and 9(1) of Security Interest (Enforcement) Rules 2002 and at present as per principle laid down by the Hon'ble Supreme Court of India referred 2025 SCC Online SC 2036 will apply and this sale is as per principle laid down by Hon'ble Supreme Court of India. There is no any illegality in sending the notices to the borrowers and guarantors.

18. The Ld. Counsel of the applicant has filed copy of market valuer assistance dt. 10.11.2025. As per applicant this report is issued by Registrations & Stamps Department, Government of India. As per this report the market value of the schedule land is Rs. 2,42,00,000/-. This rate is for urban vacant land (Commercial) but in the present case applicant has stated that schedule land is agricultural land. While after perusal of the documents, I find that the schedule land is not Agricultural land. It is a vacant land but the applicant has not stated

any where that it is a commercial land but the applicant has given valuation report of commercial land. This rate is not for vacant land/Agricultural land. Moreover the value of the schedule property as per copy of sale deed filed by the applicant at the time of purchase it was Rs. 19,36,000/-.

19. On the point of valuation and fixation of Reserve price I would like to refer the Judgment of Hon'ble Chairperson of DRAT, Kolkata passed in appeal No. 40 of 2024 (Arising out of SA No. 244 of 2022 in DRT, Visakhapatnam). This Judgment is against the order of this Tribunal. The Hon'ble Chairperson is pleased to allow the appeal. In the present case I would like to refer para 14 and 15 which are as follows:

> *14. The Authorised officer in the impugned auction fixed the reserve price on the basis of the report of the Committee duly constituted by the secured creditor Bank. The Committee has taken into consideration the previous proposed auctions which could not be materialized and the reserve fixed thereon. Accordingly, reserve price was fixed by the Authorised officer.*
>
> *15. In the present case, Authorised Officer duly consulted with the secured creditor. Committee of the Officers of the Bank in their report dated 18.04.2022 have given cogent reasons for reducing the reserve price below the distress value which was in accordance with law. It appears that the Learned DRT overlooked the provisions of Rule 8(5) of the Rules and also the report of the Committee comprising the officers of the Bank dated 18.04.2022. Learned DRT was persuaded by the fact that the Reserve price is fixed below the distress value but did not take any consideration to relevant provisions and the report. Accordingly, since the Learned DRT has allowed the S.A. merely on the ground of fixing of the reserve price below the distress value, we are of the considered view that the findings recorded by the Learned DRT are erroneous and cannot sustain. juncture also we may refer to the findings of the DRT wherein it was held that the S.A. itself is time barred. However, in totality of the circumstances, we do not find any ground for allowing the SA. Accordingly, appeal deserves to be allowed."*

Since it is 5th auction. In 4th Auction also no bidders were present and auction failed. Hence in this auction the Respondent FI has fixed the Reserve price Rs. 1,15,00,000/- and also sold the schedule property for the same and this price is just and proper and more over borrower has purchased the property on 06.05.2013 only for Rs. 19,36,000/-. As per vendor and vendee Rs. 19,36,000/- was highest price in the year 2013. After about 12 years this property is sold by the RFI for Rs. 1,15,00,000/-, which is just and proper.

20. After perusal of the papers filed by the Respondent FI (valuation Report and Other papers) I find that the schedule property is vacant land it is/was not agricultural land.

21. In this case applicant has alleged that the mortgage property is not registered with CERSAI. The Respondent FI has filed copy of Registration of Security Interest Acknowledgment Report, Dairy No. 1595/2026. As per this document this security is created on 12.06.2017 it is up loaded on the portal on 01.06.2018. It is security interest ID is 400019469274. Hence security interest is registered as per rule. On this point the allegation of the applicant is not correct.

On the basis of above discussion I find that the Respondent FI has not committed any illegality or irregularity in this SA proceedings.

Accordingly SA 208/2024 is hereby dismissed on contest with costs. All connected IAs if any are also closed.

[Dictated to the Steno, transcribed by her, corrected and pronounced by me in the open court on this 15th June, 2026]

15.06.2026

PRESIDING OFFICER
DEBTS RECOVERY TRIBUNAL
VISAKHAPATNAM