IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 15th day of June, 2026

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

IA No.1365 of 2025 in SA No.473 of 2024

1. Mr. S. Ilayaperumal
S/o D.V. Srinivasan
No.95, Perumal Koil Street
Velapadi Post, Vellore District

2. Mr. S. Ilayaraja
S/o D.V. Srinivasan
No.95, Perumal Koil Street
Velapadi Post, Vellore District …**Petitioners / Auction Purchasers**

Versus

1. Mr. A. Surendiran
S/o Appavu
Proprietor, Sri Appavu Modern Rice Mill
No.19, 4A, Big Jain Street
Kosapalayam, Arni – 632 301
Tiruvannamalai District

2. Mr. S. Prabakaran
S/o Surendiran
Proprietor, Sri Appavu Modern Rice Mill
No.19, 4A, Big Jain Street
Kosapalayam, Arni – 632 301
Tiruvannamalai District **…Respondent / Applicant**

3. The Authorised Officer
Canara Bank, Arni Branch
Thatchur Road, Arni
Tiruvannamalai District **…Respondent / Respondent**

<u>ORDER</u>

1. This Application is filed by the Petitioners / Auction Purchasers praying for impleading them as party Respondent in the above SA.

Averments in the application

2. The 1st Petitioner / Auction Purchaser has preferred an appeal before the Hon'ble DRAT, Chennai against the order of this Tribunal dated 23.11.2023 made in SA No.450/2021.

3. The Petitioners are bonafide auction purchasers who had jointly participated in e-auction conducted by the 2nd Respondent bank on 29.11.2021. The Petitioners paid the EMD and submitted a bid for a sum of Rs.3,60,10,000/- and were declared as highest bidder by the bank by their letter dated 29.11.2021. The petitioners were directed to remit 25% of the bid on or before 30.11.2021 and the balance 75% of the bid on or before 30.12.2021. The petitioners deposited the 75% of the amount within the time stipulated on 10.12.2021. On receipt of the entire sale consideration, the respondent bank issued a sale certificate in favour of the petitioners and the same was registered as Doc. No.10096 of 2021 on 15.12.2021, SRO, Arni and thus the transaction was completed.

4. The Petitioners who are the bonafide auction purchasers has nothing to do with the dispute between the borrower and the bank and the petitioners have purchased the property based on the sale notice and their interest has to be protected by this Hon'ble Tribunal.

5. The petitioners are advised to state as follows based on the records / documents served upon them at the time of hearing in SA No.450/2021 before this Tribunal:

(a) The Tribunal rightly concluded all the aspects were within the purview of SARFAESI Act and the Rules i.e., declaration of account as NPA, Issuance of demand and possession notice, valuation of subject property except the calculation as on date of issuance of third sale notice dated 20.10.2021. The Tribunal misconstrued that the service of sale notice was not made through hand delivery on 21.10.2021 and failed to note that the sale notice was delivered by post on 1.11.2021 and paper publication was effected on 22.10.2021 in both vernacular and English language.

(b) The respondent also filed an interim application and produced additional documents including the acknowledgement / personal receipt of sale notice dated 21.10.2021, the same was discussed in Para No.16 at Page 17 of DRT-II order. Despite production of documentary proof the Tribunal has misconstrued and erroneously allowed the SA.

6. This Tribunal allowed SA No.450 of 2021 and set aside the sale notice dated 20.10.2021 as null and void entitling the 1st Respondent / borrower to approach the concerned SRO for getting the registered sale certificate cancelled. Aggrieved by the order dated 23.11.2023 the petitioners have filed an appeal and the same is pending adjudication.

7. In the meantime, the 1st Respondent has filed the above appeal against the order of the Ld. CJM without impleading the petitioners as necessary parties to the proceedings since a huge amount of Rs.3,60,10,000/- was paid by the petitioners in the year 2021 itself.

8. As a legitimate auction purchasers their interest towards the subject property should also be safeguarded. The 1st Respondent / Applicant has cleverly left out the petitioners and had preferred the above appeal. Hence it is just and necessary for the above petitioners to participate in the above proceedings. No prejudice would be caused to the applicant if the petition is allowed.

Counter by Respondent Nos. 1 & 2 / Applicants

9. The Respondents 1 and 2 filed a detailed counter along with the judgments relied upon.

10. It is stated that the Respondents 1 and 2 availed two loan facilities from the bank and secured the same with properties worth Rs.5.46 crores. The 1st respondent's younger brother, who also runs a Rice mill, faced huge financial problems and sought help from the 1st respondent to purchase the stock of Paddy and Rice at his Mill and raise the quantity of stock. During the same month, the new rice brands were introduced from Andhra and Karnataka, as a result the prices of native rice drastically fell and the respondents 1 and 2 suffered huge loss resulting in default. The respondent classified the account as NPA on 28.6.2019.

Even thereafter the Respondents 1 and 2 had made several payments. Thereafter due to onset of COVID-19 pandemic the Respondents suffered more loss and the 1st respondent also lost his wife because of COVID.

11. In the interregnum, the third respondent sold the property mentioned in Item 2 of the demand notice for a throw away price. The 3rd respondent's officials colluded with land grabbers and without adhering to the provisions of the Act and the Rules made thereunder proceeded to sell the property.

12. The outstanding in the loan accounts is stated as Rs.4,23,06,249.49p. The Respondents 1 and 2 are willing to settle the accounts under OTS by paying Rs.4.5 crores, however, the 3rd respondent did not consider the same.

13. It is learnt that the auction purchasers are none other than the partner of the landlord of the Authorised Officer of the 3rd respondent. The petitioners are only name lenders and in fact it is the land lord of the authorized officer and the authorized officer had purchased the same.

14. The SA filed challenging the sale notice dated 23.10.2020 was dismissed on 4.5.2022 based on the memo Dy No.3513, wherein it is stated that the Counsel could not contact the person who referred the case.

15. Respondents 1 and 2 filed SA No.450 of 2021 to declare the sale held on 29.11.2021 as null and void. Based on the grounds raised by the Respondents 1 and 2 the SA was allowed by the orders of this Tribunal dated 23.11.2023 thereby setting aside the sale held on 29.11.2021 and the sale notice dated 20.10.2021. The respondents 1 and 2 were also given liberty to approach the concerned SRO for cancellation of the sale certificate registered.

16. The action of the third respondent is only to harass the respondents 1 and 2 and usurp the valuable property. The petitioners challenged the order of the Ld. CJM, Tiruvannamalai in Crl. M.P. No.219 of 2021 before this Tribunal vide SA No.469 of 2024 and SA No.473 of 2024 and the same are still pending.

17. The respondents 1 and 2 approached the 3rd respondent with demand draft for Rs.4,15,00,000/- towards settlement, however, the same was refused to be accepted. Even now the respondents 1 and 2 are ready to settle entire loan accounts and to establish the same they are willing to deposit Rs.3,60,00,000/- and if the bank wants to withdraw the same they have no objection.

18. The respondents 1 and 2 replied the grounds raised in the application and submitted that the sale having been set aside by the order of this Tribunal and upheld by the Hon’ble DRAT, Chennai, the petitioners 1 and 2 / auction purchasers have no right or interest in the secured asset

and hence they are not proper and necessary party for the adjudication of this SA and hence the petition is liable to be dismissed with costs.

Discussions and Findings

19. Having heard the Ld. Counsels for the parties and on perusal of the case record the following facts are admitted by the parties in given factums / situation:

(i) Sale as conducted by the bank has been set aside by the Tribunal. The same has been challenged by the auction purchaser before Hon'ble DRAT and the same is pending consideration.

(ii) Present SA No.473 of 2024 is filed challenging the measures initiated by the 3rd respondent bank under Section 14 of the SARFAESI Act pursuant to the order of Ld. Chief Judicial Magistrate, Tiruvannamalai in Crl. M.P. No.107 of 2024.

(iii) The impleading petition is filed by the auctions purchasers as enshrined in Order 1 Rule 10 of C.P.C.

20. The Hon'ble Supreme Court in catena of judgments has highlighted that auction purchasers have the right to intervene to protect their interests particularly when a sale is finalized and the sale certificate is issued. As the auction purchasers' rights are directly affected by the outcome of a challenge to the sale or possession, they are considered as a necessary party as he has acquired a right in the property.

21. It is also settled principle of law that once the sale is confirmed, the auction purchaser acquires a vested interest in the secured asset. Therefore, they must be allowed to defend their purchaser in the SA challenging the Section 14 (physical possession) order or sale itself. Even if the DRAT is currently reviewing the setting aside of the sale, the auction purchaser has an independent right to be heard in the underlying DRT because they cannot be left at the mercy of the bank or deprived of the property without being heard. Further, impleading the purchaser ensures all stakeholders are present, allowing the DRT to make an effective, final adjudication and avoiding separate litigation by the purchaser to protect their interests. Thus it is also for the prevention of multiplicity of the proceedings.

22. Accordingly, in the light of discussion as made above and for proper adjudication of the matter in issue, the following:

ORDER

(a) IA No.1365 of 2025 as filed by the auction purchasers are hereby allowed. Auction Purchasers are directed to be impleaded as party respondents in the above SA.

(b) Applicants are directed to amend the SA and file amended SA by next date of hearing.

(c) The auction purchasers / newly added respondents are directed to file their counter by next date of hearing.

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 15th day of June, 2026)