

IN THE DEBTS RECOVERY TRIBUNAL-II AT AHMEDABAD

Present: Pankaj Kumar Upadhyay, Presiding Officer

SECURITIZATION APPLICATION No.155 OF 2020

Date of Institution :20/02/2020

Date of Judgment :24/06/2026

1. M/s. Shree Nathji Cotton & Oil Industries

Situated at: S. No. 24p3/p2,
Rajpar Road, At Khanpar,
Taluka: Morbi District: Morbi-363641.

2. Shri Kamleshbhai Devshibhai Lakhiya

Hindu, Adult, Occupation: Business
Residing at: 403, Angan Palace,
Bony Park, Ravapar Road, Morbi.

3. Mr. Girishbhai Devshibhai Lakhiya

Hindu, Adult, Occupation: Business
Residing At. "Anand" Naklank Park,
B/H. GIDC Snanla Road, Morbi-363641.

4. Mr. Bharatbhai Maghjibhai Charola

Hindu, Adult, Occupation: Business
Residing at: Rajpar Road, Rajpar
Taluka & District: Rajkot

And Also

Avadh Society-1, Plot no. 25 &26,
Near Rani Kanel Road,
Shananla Road, Morbi

And Also

703, Dev Apartment,
Sanidhaya park Society,
Morbi-363641.

5. Mrs. Gitaben Pravinbhai Likhia

Hindu, Adult, Occupation: Business
Residing at: ShantbhavanAppartment,
Panchvati Society, Ravapar Road, Morbi.

6. Smt. Muktaben Devshibhai Likhiya

Hindu, Adult, Occupation: Business
Residing At: "Anand"
Naklank Park,
Behind GIDC,
Sananla Road,
Morbi-363641.

....Applicants

Versus

**1. The Authorized officer of
Indian Bank**

Morbi Branch,
7-1-27, Jail Road,
Morbi

2. Shree Hari Oil Industries,

Partnership Firm,
Behind Water Tank Hirapar,
Survey No.116 P1, Hirapar,
Jamnagar Road, Taluka: Tankara,
Morbi, Gujarat-363650

Amended as per order dated
21/04/2023

Through its partner

Kiritbhai Jivrajbhai Panara

Block No.20, Purv,
Vivekanand Nagar-1,
Near Hanumanji Temple,
Morbi Gujarat-363641

.....Respondents

Present :

Ld. Counsel for the Applicants : Mr. N. P. Udernani
Ld. Counsel for Respondent
No.1Bank : Mr. Vinay Bairagra
along with Ms. Himani Kini
Ld. Counsel for Respondent
No.2 – Auction Purchaser : Mr. C. Z. Sankhla

JUDGMENT

1. The Applicants have filed the above Securitization Application (hereinafter referred as SA) against the Respondents on 20/02/2020 seeking to quash and set aside the entire action/measures initiated by the Respondent Bank under Securitization & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (hereinafter referred as Act, 2002) against the Applicants and their properties.
2. It appears from the record that as per the directions issued by Hon'ble Apex Court vide order dated 13/10/2023 passed in SLP

(Civil) Diary No.40302/2023 as well as directions issued by Hon'ble High Court of Gujarat in SCA No.4347/2026 (converted from SCA No.8362/2026) vide order dated 30/03/2026, the present SA has been taken up for final hearing and disposal on priority basis and it is being disposed of finally by this judgment.

3. It appears from the pleadings and evidence filed by the parties on the record of this Tribunal that the Respondent Bank had granted financial assistance of Rs.6.00 Crores by way of OCC and Rs.1,76,00,000/- by way of Term Loan to Respondent No.1 vide Sanction Letter dated 19/07/2016 and Renewal Sanction Letter dated 15/01/2018. The said credit facilities were secured by various movable and immovable properties described in schedule of the Demand Notice dated 13/06/2019 issued u/s. 13(2) of SARFAESI Act.
4. It further appears that the borrowers could not maintain financial discipline and committed default in repayment of the said credit facilities and their accounts were classified as NPA on 21/05/2019. Thereafter, the Respondent Bank issued first Demand Notice dated 03/06/2019 u/s. 13(2) calling upon the Applicants to pay the outstanding dues of Rs.7,29,15,981.38 together with interest from 01/06/2019 till date of payment. Thereafter, the Respondent Bank issued revised Notice dated 13/06/2019 u/s. 13(2) of SARFAESI Act to the Applicants calling upon them to pay the outstanding dues of Rs.7,29,15,981.38 together with interest from 01/06/2019 till date of payment. The Applicants did not raise any objections u/s. 13(3A) of SARFAESI Act against either of the Demand Notices. Since the Applicants failed to comply with the Demand Notice dated 13/06/2019 issued u/s. 13(2), the Respondent Bank filed an Application u/s. 14 of SARFAESI Act before Ld. District Magistrate, Morbi for taking physical possession of the secured assets, who passed order dated 09/01/2020 u/s. 14. Pursuant to the said order, the Respondent Bank obtained physical possession of the secured assets on 24/09/2020 and issued Auction Notice dated 02/11/2021 whereby auction of the

properties was scheduled on 25/11/2021 which ultimately failed. Thereafter, the Respondent Bank issued second Auction Notice dated 04/12/2021 and scheduled auction of the properties of the Applicants on 28/12/2021. Thereafter, the Respondent Bank appears to have published another Sale Notice and scheduled the auction on 23/02/2022. In the said auction the factory premises of the Applicants appears to have been sold. The said action of sale of factory premises by the Respondent Bank on 23/02/2022 was challenged by the Applicants herein vide I.A.No.2872/2022 and I.A.No.1370/2022. After a long drawn litigation pertaining to impugned auction held on 23/02/2022, the Respondent Bank issued Sale Certificate on 27/12/2022 and executed Sale Deed dated 12/05/2023 in favour of Respondent No.2 – Auction Purchaser and thereafter, Bank has also handed over the possession of the disputed property to Respondent No.2-Auction Purchaser. Challenging all these actions of Respondent Bank, present SA has been filed by the Applicants for quashing the SARFAESI actions.

5. I have heard arguments of Ld. Counsels for the parties and perused the pleadings and evidences led by the parties on the record of this Tribunal. The Applicants have filed their Written Submissions vide Ex.A/68, Respondent No.1 Bank has filed its Written Submissions vide Ex.R/70 and Respondent No.2 – Auction Purchaser has filed his Written Submissions vide Ex.R/69. Moreover, the parties have also relied on judgments in support of their respective submissions, which shall be referred at appropriate stage in this Judgment hereinafter.

Contentions of the Applicants:

- a) The Respondent Bank has issued two Demand Notices dated 03/06/2019 and 13/06/2019 u/s.13(2) of SARFAESI Act. Both the Demand Notices were never served upon the Applicants. Therefore, the Applicants could not avail their remedy to object the contents of Demand Notice u/s. 13(3A) of SARFAESI Act.

- b) As the first Demand Notice dated 03/06/2019 was withdrawn by the Respondent Bank, it became non-est and non-existent in the eyes of law.
- c) The Respondent Bank has failed to provide details and bifurcation of the amount claimed in the second Demand Notice dated 13/06/2019 u/s. 13(2) of SARFAESI Act. Therefore, the Demand Notice is illegal and not enforceable in the eyes of law. It is also contrary to the law laid down by Hon'ble High Court of Gujarat in **Hon'ble High Court of Gujarat in LPA No.159 of 2020 in the case of Punjab National Bank Vs. Mithilanchal Industries, decided on 17/08/2020.**
- d) The order dated 09/01/2020 passed by the Ld. District Magistrate, Morbi u/s. 14 of SARFAESI Act is bad in law and hence, the subsequent action of taking physical possession of the properties by the Respondent Bank on 24/09/2020 is also bad in law.
- e) The Auction Sale Notice dated 04/02/2022 and the auction proceedings conducted on 23/02/2022 in respect of factory premises of Applicant No.1 are bad in law and deserves to be quashed and set aside.

Contentions of Respondent No.1 Bank:

- a) The Demand Notice dated 13/06/2019 u/s. 13(2) and order dated 09/01/2020 passed Ld. District Magistrate, Morbi u/s. 14 of SARFAESI Act have already been adjudicated and decided by this Tribunal vide order dated 24/09/2020 in favour of the Respondent Bank. Since, the Applicants have not challenged the said order dated 24/09/2020 before higher forum, it has attained finality and the Applicants are not entitled to reopen the said issues.

- b) In pursuance of direction issued by this Tribunal vide order dated 24/09/2020, the Respondent Bank had made four attempts for selling the secured assets, out of which, plant and machineries came to be sold in an auction conducted on 25/11/2021, whereas factory land come to be sold in an auction conducted on 23/02/2022.
- c) The Applicants are estopped from challenging the legality of Demand Notice dated 13/06/2019 issued u/s. 13(2) and they have waived their rights to challenge the Demand Notice u/s. 13(2) as well as order dated 09/01/2020 passed u/s. 14 by accepting their liability by means of OTS offers dated 22/04/2022 and 07/07/2022. In support of his submission, he relied on the judgment of Hon'ble Supreme Court of India in the case of **ARCE Polymers Pvt. Ltd. vs. Alphine Pharmaceuticals Pvt. Ltd., reported in (2022) 2 SCC 221.**
- d) The Respondent Bank has duly complied with the provisions of Rules 8(6), 8(7) and 9(1) of Security Interest Rules by publishing the impugned Auction Notice 04/02/2022 in two leading newspapers on 08/02/2022. Thus, notice about the auction sale was provided to the Applicants on the date of publication and there is no requirement under law to serve any other separate notice upon the Applicants. In support of his submissions, Ld. Counsel for the Respondent Bank relied on the judgment of Hon'ble Supreme Court of India in the case of **M. Rajendran vs. M/s KPK Oils and Proteins India Pvt. Ltd., reported in 2025 SCC Online SC 2036.**
- e) Upon publication of Sale Notice, the rights of Applicants u/s. 13(8) of SARFAESI Act got extinguished. In support of his submission, Ld. Counsel for the Respondent Bank relied on the judgment of Hon'ble Supreme Court of India in the case of **Celir LLP vs. Sumati Prasad Bafna, reported in 2024 SCC Online SC 3727.**

- f) The Applicants have utterly failed to demonstrate what prejudice has been caused to them by not providing notice of clear 15 days for sale of the secured assets. The Applicants have never come forward and settled their dues prior to publication of Auction Sale Notice by the Respondent Bank. In support of his submission, Ld. Counsel for the Respondent Bank relied on the judgment of Hon'ble Supreme Court of India in the case of ***M.S. Sanjay vs. Indian Bank reported in 2025 SCC Online 368.***
- g) The Applicants have not produced any evidence to demonstrate that valuation of the property in question obtained by the Respondent Bank is incorrect or lower than the actual market price.
- h) There is no violation / infirmity in the measures taken by the Respondent Bank under SARFAESI Act and hence, the same deserve to be upheld.
- i) After indulgence shown by the Hon'ble High Court of Gujarat, the Respondent Bank has issued Sale Certificate dated 27/12/2022 and executed Sale Deed dated 12/05/2023 in favour of the Auction Purchaser. As such, the action / measures undertaken by the Respondent Bank for recovery of huge outstanding public money deserve to be upheld.

Contentions of Respondent No.2:

- a) The Auction Sale Notice published on 08/02/2022 did not mention anything about pendency of legal proceedings against the property in question, which was put for sale and hence, proposed bidders did not have any notice about pending legal proceeding before this Tribunal.
- b) Respondent No.2 believed that the auction proceeding must have been initiated by Respondent No.1 Bank, as secured

creditor, only after satisfying itself about the provisions of Section 13(8) of SARFAESI Act pertaining to redemption of the property. Thus, the Auction Purchaser participated in the auction as a bidder, without any notice and it was declared as the highest bidder by the Respondent Bank. The Auction Purchaser had no idea about pendency of present SA being S.A.No.155/2020 while submitting the bid.

- c) Even after receiving the full consideration and compliance of all the instructions as contended in the Auction Sale Notice, the Respondent Bank was not issuing Sale Certificate and was not handing over physical possession of the property in question. Therefore, the Auction Purchaser had approached Hon'ble High Court of Gujarat by means of SCA No.13531/2022 and SCA No.8152/2023.
- d) On account of aforesaid conduct of the Respondent Bank, the Auction Purchaser was not able to utilize the property in question despite payment of the entire consideration to the Bank since March, 2022.
- e) Further after dismissal of LPA No.1198/2023 filed by the Auction Purchaser herein before Hon'ble Division Bench of High Court of Gujarat vide order dated 21/09/2023, the Auction Purchaser herein preferred SLP (Civil) Diary No.40302/2023 before Hon'ble Supreme Court of India, which was disposed of vide order dated 13/10/2023 wherein the Auction Purchaser herein was permitted to ask for an expeditious disposal of S.A.No.155/2020 pending before this Tribunal. The Applicants herein have not been able to make out any case for intervention by this Tribunal u/s. 17(3) of SARFAESI Act and the present SA deserves to be dismissed.

6. Based upon the pleadings, evidences and arguments as placed by Id. Counsels for the parties on record of this Tribunal, the following issues are framed for complete and effective adjudication of above SA:

ISSUES:

- (1) Whether Demand Notice dated 13/06/2019 issued u/s. 13(2) of SARFAESI Act is legal and valid?
 - (2) Whether order dated 09/01/2020 passed by Ld. District Magistrate, Morbi u/s. 14 of SARFAESI Act is legal and valid?
 - (3) Whether sale of the secured asset by way of auction by the Respondent Bank is legal and valid?
 - (4) To what relief, if any, Applicants are entitled?
7. Before advertng to the merits of the aforesaid issues between the parties, it is necessary to deal with the arguments of Ld. Counsel for the Respondent Bank that the issues pertaining to legality and validity of measures taken by the Respondent Bank u/s. 13(2) and Section 14 have already been finally decided by this Tribunal vide its order dated 24/09/2020 and this Tribunal has held those measures to be legal and valid. The said order dated 24/09/2020 has not been challenged by the Applicants before any higher authority and hence, it has attained finality. Therefore, the Applicants are not entitled to reagitate those issues at the time of final hearing and this Tribunal should not decide legality and validity of those measures again at this stage. In support of his submissions, Ld. Counsel for the Respondent Bank has relied on judgment of Hon'ble Supreme Court in case of **Indian Farmers Fertilizer Cooperative Limited vs. Bhadra Products, (2018) 2 SCC 534**.
8. On the other hand, Ld. Counsel for the Applicants submitted that order dated 24/09/2020 passed by this Tribunal was an interim order based on the prima facie findings. Therefore, the Applicants have every right to deal with those issues at the times of final hearing.
9. On perusal of order dated 24/09/2020 passed by this Tribunal, it appears that the said order was passed when the Applicants approached this Tribunal upon attempt of the Respondent Bank to take physical possession of the secured asset. It is true that at the time of hearing on Interim Relief, the Applicants raised

various objections pertaining to Demand Notice issued u/s. 13(2) and order dated 09/01/2020 passed by Ld. District Magistrate u/s. 14 of SARFAESI Act and this Tribunal, after examining the documentary evidences placed on record, formed a prima facie opinion that there is no illegality either in the Demand Notice issued u/s. 13(2) as well as order dated 09/01/2020 passed u/s. 14. It further appears that this Tribunal specifically observed at the end of the order dated 09/01/2020 as under:

"No observation made above will have any bearing on the merits of the case."

From the above observations it is evident that this Tribunal had expressed only its prima facie findings on the aspects of legality or otherwise of Demand Notice u/s. 13(2) and impugned order passed u/s. 14.

10. The judgment of Hon'ble Supreme Court of India in **IFFCO case (Supra)**, relied on by Ld. Counsel for the Respondent Bank, was pertaining to preliminary issue regarding limitation. It has been held therein whether interim award is final to the extent it goes or has effect till the final award is delivered will depend upon the form of the award. If the interim award is intended to have effect only so long as the final award is not delivered, it will have the force of the interim award and it will cease to have effect after the final award is made.
11. In the present case, this Tribunal clearly intended that the interim order passed on 24/09/2020 was to be effective only till final judgment in the present SA and it will cease to have effect after the final judgment is delivered in the matter. In that view of the matter, this Tribunal is unable to countenance the submissions of Ld. Counsel for the Respondent Bank that issues pertaining to Demand Notice u/s. 13(2) and order dated 09/01/2020 passed u/s. 14 have finally been decided by this Tribunal. Accordingly, this Tribunal holds that the order dated 24/09/2020 passed by this Tribunal cannot come in the way of

the Applicants to agitate their grievances against the impugned Demand Notice u/s. 13(2) and order dated 09/01/2020 u/s. 14 at the time of final hearing.

Issue No.1 – Demand Notice u/s 13(2)

12. It is the case of the Applicants that two Demand Notices have been issued by the Respondent Bank which are dated 03/06/2019 (pg. 24-31 with SA) and dated 13/06/2019 (pg. 32-38 with SA). Both the notices were never duly served upon the Applicants and such fact has been admitted by the Respondent Bank in its Application filed u/s 14 of SARFAESI Act (Pg. 45-58 with Reply of Respondent Bank Exh.R/08). Due to non-service of the Demand Notices, the Applicants could not avail their remedy to object to the contents of the Demand Notices as provided u/s 13(3A) of the SARFAESI Act.
13. Per contra, Ld. Counsel for the Respondent Bank submitted that the Applicants themselves have placed 13(2) Notices on record and they have not clarified as to which Applicant was not served with the Demand Notices.
14. Upon consideration of the pleadings and documents placed on record, this Tribunal finds no merit in the contention of the Applicants regarding non-service of the Demand Notices issued under Section 13(2) of the SARFAESI Act. Admittedly, the Applicants themselves have produced copies of both Demand Notices dated 03/06/2019 and 13/06/2019 along with the present Securitisation Application, which clearly establishes that the Applicants had knowledge of the said notices and the proceedings initiated by the Respondent Bank. Mere allegation of improper or non-service, in absence of specific pleadings as to which Applicant was not served and how prejudice has been caused, cannot be accepted. Furthermore, the Applicants have failed to place on record any cogent material to substantiate that they were completely deprived of the opportunity contemplated under Section 13(3A) of the SARFAESI Act. It is well settled that substantial compliance of the statutory requirement is sufficient and hyper-technical objections cannot

be permitted to defeat recovery proceedings. Hence, the objection raised by the Applicants with regard to non-service of Demand Notices deserves to be rejected.

15. It is averred by the Applicants that the second Demand Notice dated 13/06/2019 is bad in law in as much as the details and bifurcation as contemplated u/s 13(3) have not been provided in the entire Demand Notice. The absence of bifurcation and details in the entire notice is fatal and makes the Demand Notice non-enforceable in the eyes of law and therefore, when the foundation itself is illegal, all the subsequent measures undertaken by the Respondent Bank would fall on the ground and deserve to be quashed and set aside. In support of his submissions, Ld. Counsel for the Applicants relied on the judgment of **Hon'ble High Court of Gujarat in LPA No.159 of 2020 titled as Punjab National Bank V/s. Mithilanchal Industries Pvt. Ltd., decided on 17/08/2020.**
16. As against this, Ld. Counsel for the Respondent Bank submitted that no objections have been filed by the Applicants u/s 13(3A) against the impugned Demand Notice and hence, the Applicants have admitted the contents of the notice and now they cannot raise such dispute. He further submitted that by accepting the liability and providing One Time Settlement Offer letters dated 22/04/2022 (Exh.A/24) and 07/07/2022 to the Respondent Bank, the Applicants have waived their right to challenge the Demand Notice dated 13/06/2019. In support of his submission, he placed reliance on the judgment of Hon'ble Supreme Court of India in the case of **ARCE Polymers Pvt. Ltd. V/s. Alphine Pharmaceuticals Pvt. Ltd., (2022)2 SCC 221.**
17. With regard to the reliance placed by Ld. Counsel for the Applicants on the judgment of the Hon'ble High Court of Gujarat in **Mithilanchal Industries' case (Supra)**, Ld. Counsel for the Respondent Bank submitted that in that case, there was a pre-existing dispute prior to the issuance of Demand Notice and at that stage, certain information was sought for, and not provided. In the facts of the present case, there was neither any

dispute nor any objections were raised by the Applicants u/s 13(3A) of SARFAESI Act. Therefore, the said judgment will not be applicable to the facts of the present case.

18. I have thoughtfully considered the rival submissions advanced by the Learned Counsel for the parties and have also perused the material available on record. The principal contention raised by the Applicants is that the Demand Notice dated 13/06/2019 issued under Section 13(2) of the SARFAESI Act is vitiated on account of alleged non-compliance of Section 13(3) of the Act, in as much as the notice allegedly does not contain sufficient details and bifurcation of the amount claimed by the Respondent Bank. According to the Applicants, such alleged defect goes to the root of the matter and consequently renders all subsequent measures undertaken under the SARFAESI Act illegal and non-est in the eyes of law.
19. At the outset, it is pertinent to note that the Applicants have nowhere placed on record any contemporaneous objection or representation made under Section 13(3A) of the SARFAESI Act immediately after receipt of the impugned Demand Notice dated 13/06/2019. The legislative scheme of Sections 13(2) and 13(3A) of the Act clearly envisages that if the borrower is aggrieved by the quantification of dues, classification of account, non-supply of particulars, or any other discrepancy in the demand notice, the borrower is required to raise objections or make a representation within the statutory period. The provision under Section 13(3A) is not an empty formality, but a substantive opportunity provided to the borrower to ventilate grievances before coercive measures are taken by the secured creditor.
20. In the present case, despite receipt of the Demand Notice, the Applicants admittedly did not avail the statutory remedy available under Section 13(3A) of the Act by seeking particulars, bifurcation, clarification, or reconciliation of accounts from the Respondent Bank. The silence maintained by the Applicants at the relevant point of time assumes significance, particularly

when no material has been brought on record to demonstrate that the Applicants were unable to understand the nature of liability or the amount demanded by the Bank. In absence of any contemporaneous challenge, the Applicants cannot now be permitted to raise hyper-technical objections at a belated stage with a view to invalidate the recovery proceedings.

21. Furthermore, the record reveals that subsequent to issuance of the impugned Demand Notice, the Applicants had addressed **One Time Settlement proposals/offers dated 22/04/2022 and 07/07/2022** to the Respondent Bank, thereby unequivocally acknowledging their outstanding liability towards the Respondent Bank. Such conduct on the part of the Applicants clearly establishes that they were fully aware of the debt due and payable and had accepted the jural relationship of borrower and secured creditor. Once the liability itself has been acknowledged and settlement proposals have been voluntarily submitted, the Applicants cannot approbate and reprobate by simultaneously challenging the legality of the Demand Notice on technical grounds.
22. In this regard, reliance placed by the Ld. Counsel for the Respondent Bank on the judgment of the Hon'ble Supreme Court in **ARCE Polymers Pvt. Ltd. v. Alpine Pharmaceuticals Pvt. Ltd.** is well founded. The Hon'ble Apex Court has categorically held that a borrower who has acknowledged liability and participated in settlement negotiations cannot subsequently be permitted to challenge the measures under the SARFAESI Act on grounds which otherwise stood waived by conduct. The principle of waiver and acquiescence squarely applies to the facts of the present case.
23. Coming to the reliance placed by the Applicants on the judgment of the Hon'ble High Court of Gujarat in **Punjab National Bank v. Mithilanchal Industries Pvt. Ltd.**, this Tribunal is of the considered opinion that the said judgment is clearly distinguishable on facts. In the said case, there existed a pre-existing dispute between the parties and the borrower had

specifically sought requisite information and details from the secured creditor prior to or immediately upon receipt of the demand notice, which were allegedly not furnished. It was in those peculiar facts and circumstances that the Hon'ble High Court examined the validity of the notice.

24. However, in the instant matter, no such pre-existing dispute has been demonstrated by the Applicants. No material has been placed on record to show that the Applicants had ever demanded bifurcation or details of the dues from the Respondent Bank under Section 13(3A) of the Act or that any such request was refused by the Bank. On the contrary, the conduct of the Applicants in submitting OTS proposals clearly indicates acknowledgment of the dues claimed by the Respondent Bank. Therefore, the ratio laid down in **Mithilanchal Industries' case** is not applicable to the peculiar facts of the present matter.
25. Even otherwise, substantial compliance of Section 13(3) of the SARFAESI Act is sufficient if the borrower is made aware of the amount payable and the secured assets intended to be enforced. The object of the provision is to provide notice of the outstanding liability and afford an opportunity to the borrower to discharge the dues within the stipulated period. Merely because the Applicants now contend that further bifurcation could have been provided, the same by itself would not invalidate the Demand Notice, particularly in absence of any prejudice having been demonstrated by them.
26. It is a settled proposition of law that procedural irregularities, unless shown to have caused serious prejudice or miscarriage of justice, do not ipso facto invalidate proceedings initiated under the SARFAESI Act. In the present case, the Applicants have failed to establish as to how any alleged non-furnishing of detailed bifurcation in the Demand Notice caused prejudice to them, especially when they neither disputed the liability at the relevant stage nor sought clarification from the Respondent Bank.

27. In view of the foregoing discussion, this Tribunal is of the considered opinion that the Demand Notice dated 13/06/2019 cannot be said to be illegal, invalid, or unenforceable in law. Consequently, the subsequent measures undertaken by the Respondent Bank under the provisions of the SARFAESI Act also do not suffer from any legal infirmity on this ground. The contention raised by the Applicants is therefore devoid of merits and liable to be rejected. **Accordingly Issue No.1 is answered in affirmative.**

Issue No.2 – Order dated 09/01/2020 passed u/s 14

28. It is the case of the Applicants that on perusal of order dated 09/01/2020 passed by Ld. District Magistrate, Morbi u/s 14 of SARFAESI Act, it becomes evident that the Respondent Bank has obtained the said order in furtherance of the Demand Notice dated 03/06/2019. The Applicants have stated that at the time of issuance of the second Demand Notice dated 13/06/2019, the Respondent Bank had withdrawn the first Demand Notice dated 03/06/2019 and had issued a "*revised Demand Notice dated 13/06/2019*".
29. The Applicants have submitted that the Respondent Bank has produced Application u/s 14 of SARFAESI Act along with its Reply Exh.R/08 wherein it is categorically admitted by the Respondent Bank that the Demand Notice could not be served and hence, newspaper publication had been done on 19/06/2019. In the Nine Pointer Affidavit produced by the Respondent Bank along with its Reply Exh.R/08, there is no whisper of the date of Demand Notice. Therefore, in view of clear misrepresentation on the part of the Respondent Bank, the order obtained by the Respondent Bank u/s 14 of SARFAESI Act is bad in law and deserves to be quashed and set aside. In support of his submission, Ld. Counsel for the Applicants relied on the judgment of Hon'ble High Court of Gujarat in **Manjudevi Somani's case.**

30. Per contra, Ld. Counsel for the Respondent Bank reiterated his contentions relating to Demand Notice and submitted that the Applicants are stopped from challenging the legality and validity of order dated 09/01/2020 u/s 143 as they have waived their right by accepting their liability and submitting OTS Offers to the Respondent Bank.
31. I have thoughtfully considered the rival submissions advanced by the learned Counsel appearing for the parties and have also perused the material placed on record. The principal grievance of the Applicants is that the order dated 09/01/2020 passed by the learned District Magistrate, Morbi under Section 14 of the SARFAESI Act is vitiated on account of alleged misrepresentation by the Respondent Bank with regard to the Demand Notice issued under Section 13(2) of the Act. According to the Applicants, since the earlier Demand Notice dated 03/06/2019 was withdrawn and a revised Demand Notice dated 13/06/2019 came to be issued, the proceedings initiated under Section 14 on the basis of the earlier notice are rendered illegal.
32. Upon examination of the record, it emerges that the Respondent Bank had initiated measures under the SARFAESI Act after classification of the loan account as NPA and issuance of Demand Notice under Section 13(2) of the Act. Merely because a subsequent or revised notice dated 13/06/2019 was issued by the Bank, the same would not ipso facto invalidate the proceedings initiated by the secured creditor, particularly when the liability of the Applicants and the status of the secured asset are not in dispute. The record further indicates that publication of the Demand Notice was effected in the newspapers on 19/06/2019 upon failure of service, which demonstrates substantial compliance with the statutory requirements contemplated under the Act and Rules framed thereunder.
33. The contention of the Applicants that there was suppression or misrepresentation before the learned District Magistrate also does not merit acceptance. The application under Section 14 of

the SARFAESI Act and the accompanying affidavit substantially disclose the material particulars necessary for seeking assistance of the District Magistrate for taking possession of the secured asset. Mere absence of specific reference to the date of the revised Demand Notice in the nine-point affidavit cannot be construed as a deliberate concealment so as to vitiate the entire proceedings, especially when the Applicants have failed to demonstrate any prejudice caused to them on account thereof. It is well settled that procedural irregularities which do not go to the root of the matter cannot invalidate proceedings undertaken by the secured creditor in exercise of statutory powers.

34. Furthermore, the conduct of the Applicants assumes significance. The record reveals that subsequent to issuance of notices and initiation of proceedings under the SARFAESI Act, the Applicants had acknowledged their liability and submitted proposals for One Time Settlement before the Respondent Bank. Such conduct clearly indicates that the Applicants were aware of the recovery proceedings and had, in substance, accepted the outstanding dues payable to the Bank. Having participated in the settlement process and sought indulgence from the Respondent Bank, the Applicants cannot now be permitted to assail the legality of the Section 14 proceedings on hypertechnical grounds.
35. The judgment relied upon by the learned Counsel for the Applicants in the case of **Manjudevi Somani** is distinguishable on facts and does not advance the case of the Applicants. In the present matter, there is no material on record to establish that the Respondent Bank had obtained the order dated 09/01/2020 by practicing fraud or by suppressing material facts before the competent authority. On the contrary, the material available on record reflects substantial compliance of the statutory procedure by the secured creditor before invoking the provisions of Section 14 of the SARFAESI Act.
36. In view of the aforesaid discussion, this Tribunal is of the considered opinion that process of u/s 14 of the SARFAESI Act

is non-adjudicatory and administrative in nature. The impugned order also appears to have been passed by Ld. District Magistrate after recording satisfaction. Therefore the objections raised on behalf of the Applicants challenging the said order are not sustainable. Accordingly this Tribunal is of the opinion that the impugned order dated 09/01/2020 passed u/s 14 is legal and valid and **Issue No. 2 is answered in affirmative.**

Issue No.3- Auction Sale

Submissions of Applicants:

37. Ld. Counsel for the Applicants submitted that somewhere in the month of March 2022, the Applicants gained knowledge of an illegal sale transaction initiated by the Respondent Bank and accordingly the Applicants moved an application being IA No.872/2022 (Exh.A/19) to challenge the Auction scheduled on 23/02/2022. However, the Applicants never received any Auction Notice scheduling the Auction on 23/02/2022. The Applicants also filed another application being IA No.1370/2022 (Exh.A/21) seeking amendment in the pleadings pertaining to challenge to the Auction scheduled on 23/02/2022. The Applicants subsequently raised contention regarding non-service of Auction Sale Notice to them as per Rule 8(2A) read with Rule 8(6) of Security Interest Rules. In spite of such specific contention, the Respondent Bank has yet not produced on record the compliance of service of Auction Sale Notice. Relying on the Judgement of Hon'ble Supreme Court in the case of **Mathew Varghese vs. M. Amritha Kumar and Ors., (2014) 5 SCC 610**, Ld. Counsel for the Applicants submitted that non-service or absence of proof of service of the Auction Sale Notice in compliance of Rules 8(6) and 9(1) of Security Interest Rules would make the Auction Sale Notice defective in the eyes of law. It has also been held therein that any sale or transfer of secured asset under SARFAESI Act in violation of any of the above mandatory requirements would be invalid. According to Ld. Counsel for the Applicants, the Rules envisage service through post, hand delivery, publication etc. However, the Respondent Bank has only produced service through affixation

and through paper publication, that too without mention of any date of service. He further submitted that the Auction scheduled on 23/02/2022 was not first auction and therefore the procedure contemplated under Rule 9 would be applicable. Even assuming that the service through paper publication only is considered to be a valid service, the paper publication was of 08/02/2022 and the Auction was scheduled on 23/02/2022. Hence, the Respondent Bank has not given a clear 15 days' Notice to the Applicants. Consequently, the impugned Auction Notice is bad in law and deserves to be quashed and set aside in light of the law settled by Hon'ble Supreme in **Mathew Varghese's Case (supra)**.

Submissions of Respondent Bank:

38. As against this, Ld. Counsel for the Respondent Bank submitted that the Respondent Bank obtained 2 Valuation Reports dated 02/02/2022 from two independent valuers (at page 23-39 of Additional Reply of the Respondent Exh.R/56). The valuation arrived in the said reports was to the tune of Rs.1.26 crores for the property in question, whereas it has been sold by the Respondent Bank for a sale consideration of Rs.1.56 crores. Hence, the contention with regard to sale of the property in question at a throwaway price is baseless.
39. Ld. Counsel for the Respondent Bank submitted that the provisions of Rules 8(6), 8(7) and 9(1) of Security Interest Rules contemplate only one single Composite Notice and no separate Notice to the Borrower/ Guarantor is required. According to him, Notice by way of publication in newspaper would mean Notice to the Borrower/ Guarantor as well. In the present case, the Auction Notice dated 04/02/2022 came to be published in two leading newspapers on 08/02/2022 (at page 15 and 16 with Additional Reply of the Respondent Bank Exh.R/56) which provided Notice to the public in general and in particular to the Applicants. Hence, the Notice about Auction Sale being provided to the Applicants on the said date of publication, there is no requirement under law to serve any other separate Notice to the Applicants as alleged. In support of

his submission, he relied on the Judgment of Hon'ble Supreme Court in the case of **M. Rajendra vs. M/s. KPK Oils & Proteins India Pvt. Ltd. 2025 SCC OnLine SC 2036.**

40. With respect to gap of 15 clear days between the date of service and date of Auction, Ld. Counsel for the Respondent Bank submitted that the Applicants have utterly failed to demonstrate what prejudice has been caused to them by not providing 15 days clear Notice. He further submitted that the present Auction Sale Notice was the 6th attempt made by the Respondent Bank for recovery of its dues and the Applicants have never come forward and settled their dues. Even assuming that one more day would have been granted, in that eventuality also, the same would not have made any difference as the Applicants have chosen not to make any payment after declaration of accounts as NPA in the year 2019. He also placed reliance on the judgment of Hon'ble Supreme Court of India in the case of **M. S. Sanjay vs. Indian bank, 2025 SCC OnLine 268,** and submitted that the Hon'ble Apex Court has held that the Auction sale conducted on the 15th day from the date of service of Notice to the Borrower is valid.
41. Ld. Counsel for the Respondent Bank further submitted that there is no fundamental procedural error or infirmity in the Auction proceedings conducted by the Respondent Bank and no substantial injury has been caused to the Applicants and hence, the action or the measures undertaken by the Respondent Bank deserve to be upheld. He also relied on the Judgment of Hon'ble Supreme Court of India in the case of **Celir LLP vs. Sumati Prasad Bafna, 2024 SCC OnLine SC 3727.**
42. Ld. Counsel for the Respondent Bank submitted that Sale Certificate dated 27/12/2022 has already been issued and a Sale Deed has also been executed in favour of Respondent No.2- Auction Purchaser on 12/05/2023 and the same cannot be set aside for minor procedural irregularities, except on the grounds of collusion, fraud or inadequate pricing.

Submissions of Respondent No.2 – Auction Purchaser

43. Ld. Counsel for Respondent No.2- Auction Purchaser submitted that the Auction Sale Notice dated 08/02/2022 did not mention anything about pendency of legal proceedings against the property in question and hence, the proposed bidders did not have any notice about pending legal proceedings before this Tribunal. The Auction Purchaser participated in the auction as a bidder, without any notice about pendency of S.A.No.155/2020 while submitting the bid. Even after receiving full consideration and due compliance of all the instructions as contained in Auction Sale Notice, the Respondent Bank was not issuing Sale Certificate and was not handing over physical possession of the property in question, which compelled the Auction Purchaser to approach the Hon'ble High Court of Gujarat by way of SCA No.13531/2022. After hearing the parties, the Hon'ble High Court of Gujarat was pleased to pass order dated 22/02/2022 and it was thereafter that the secured creditor issued Sale Certificate dated 27/12/2022 and handed over physical possession of the property in question to the Auction Purchaser. Due to non-issuance of Sale Certificate by the Respondent Bank, the Auction Purchaser was not able to utilize the said property even after the payment made in a time bound manner. The Auction Purchaser, having become absolute owner of the said property, availed loan from Bank of India to purchase plant and machineries and working capital requirement to run the factory and in consideration, the Auction Purchaser created mortgage over the said property in favour of the Bank of India by executing Registered Mortgage Deed dated 19/07/2023. However, in view of order passed by Hon'ble High Court, the Auction Purchaser paid the dues of Bank of India and accordingly, Deed of Release was executed by the said Bank in favour of the Auction Purchaser which was registered before SRO, Morbi, vide Registration No.23360 dated 23/10/2023.
44. Ld. Counsel for the Auction Purchaser – Respondent No.2 submitted that the Auction Purchaser, having purchased the property in question in good faith and without any notice or

possibility of any adverse situation, cannot held responsible for any illegality, irregularity, non-compliance of provisions of SARFAESI Act or Security Interest Rules committed by the Authorized Officer of the secured creditor during the entire process of conducting the auction proceedings. In support of his submissions, Ld. Counsel for the Auction Purchaser – Respondent No.2 relied on the judgment of Hon'ble Supreme Court of India in the case of **Sadashiv Parsad Singh vs. Harendar Singh & Ors. (2014 LawSuit (SC) 17)**. He also relied on another judgment of Hon'ble Supreme Court of India in **CELIR LLP's case (Supra)** and submitted that no intervention by this Tribunal u/s. 17(3) of SARFAESI Act is warranted at this stage. He further submitted that the sole intention of the Applicants is to create confusion and to defeat or delay the process of recovery of public money advanced by the secured creditor and hence, the present SA may be dismissed with cost.

Discussion:

45. On perusal of the evidence placed by the Respondent Bank on record vide Ex.R/40, it appears that the Respondent Bank obtained valuation report of the property in question from Government Registered Valuer dated 02/02/2022 (at Page 10-26 with Ex.R/40). The said document proves compliance with Rule 8(5) of Security Interest Rules by the Respondent Bank.
46. The Respondent Bank has produced a copy of E-auction Sale Notice dated 04/02/2022 and its paper publication along with Ex.R/40; it has also produced a copy of Sale Certificate dated 27/12/2022 (at Page 39 with Ex.R/40) issued in favour of Respondent No.2 – Auction Purchaser. It has further produced a copy of Registered Sale Deed dated 12/05/2023 along with Purshis vide Ex.R/42, executed in favour of the Auction Purchaser. The Respondent Bank has also filed Additional Affidavit-in-Reply vide Ex.R/56. It is stated in Para 4 of Affidavit-in-Reply as under:

"4. As regards the challenge to the auction sales notice dated 04.02.2022, for the auction to be held on

23.02.2022, the Respondent Bank categorically denies all the allegations made by the applicants in this behalf and state that the said auction sale notice is legal, valid and in accordance with law. I say that the said auction notice was duly served, as well as, the same was also pasted on conspicuous part of the property in question, and was also published in two leading newspapers i.e. Financial Express English Edition and Gujarati Edition, on 08.02.2022. Copies of the Sale Notice issued in Appendix-IV-A in terms of Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, photographs of the affixation, as well as, advertisements in the newspapers are annexed hereto and marked as Annexure-R1 Colly."

47. It is true that the Respondent Bank has not produced on record specific proof of personal service of the sale notice upon the Applicants. However, the material available on record clearly establishes that the E-Auction Sale Notice dated 04/02/2022 was affixed upon the secured asset and was also published in two widely circulated newspapers on 08/02/2022. The Applicants admittedly acquired knowledge of the auction proceedings and thereafter challenged the same by filing appropriate applications before this Tribunal. Thus, the object underlying Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, namely informing the borrower about the proposed sale, stood substantially achieved.
48. The Hon'ble Supreme Court in **M. Rajendra v. M/s. K.P.K. Oils & Proteins India Pvt. Ltd., 2025 SCC OnLine SC 2036**, has authoritatively held that Rules 8(6), 8(7) and 9(1) contemplate one composite notice of sale and that the distinction lies only in the mode of its publication, service and affixation. The said judgment further recognizes that the requirements are to be examined in a pragmatic manner having regard to the facts of each case. It has been held in the said judgment as under:

"154. The reason why we say, that Rule 8(6) of the SARFAESI Rules is the sole constituent provision stipulating

the requirement of giving a notice of sale is because, ordinarily, when the secured asset given as security to the secured creditor is proposed to be sold off by it, the primary party that has a vested interest in knowing about such intention to sell, is the borrower. There can be no sale of a security interest of the borrower by the secured asset, by the secured creditor, without first, informing the borrower of its intention to sell the same. This is why, irrespective of what the mode of sale is in terms of Rule 8(5), be it by obtaining quotations or inviting tenders, or holding public auction or by private treaty, a notice of the intended sale of the secured asset by the secured creditor, by any of the aforesaid method, has to be mandatorily given to the borrower.

155. *All the other provisions pertaining to the notice of sale, namely the Proviso to Rule 8(6), Rule 8(7) and Rule 9(1) respectively, only govern the manner in which such notice of sale contemplated under Rule 8(6), has to be given. The said rules only go so far as to stipulate certain additional conditions or requirements in effectuating the notice of sale under Rule 8(6), but do not by any stretch stipulate the requirement for causing a completely separate and distinct notice, in addition to the notice of sale under Rule 8(6) of the SARFAESI Rules.*

156. *In the entire gamut of the scheme formed by Rule(s) 8(6), the Proviso thereto, 8(7) and 9(1) respectively, all speak of only one single composite notice of sale, the only difference between these provisions, is the manner in which such notice of sale is to be effectuated and given. Rule 8(6) speaks of serving a thirty days' notice of sale to borrower. On the other hand, where the public is sought to be involved in the sale process, either by auction or by inviting tender, then the same notice of sale has to be published in the newspaper. As per Rule 8(7), apart from serving the notice of sale and / or causing it in a newspaper, as the case may be, the self-same notice of sale has to also be affixed on the conspicuous part of the immovable secured asset and also uploaded on the website of the secured creditor.*

157. Thus, it can be seen from the above, that Rule 8(6) and the Proviso appended to it, Rule 8(7) and Rule 9(1) of the SARFAESI Rules respectively, all speak of only one single notice of sale. The distinction lies only in the manner in which it is to be given, inasmuch as under Rule(s) 8(6), Proviso thereto, 8(7) and 9(1) respectively, the same notice is required to be served to the borrower, published in the newspaper, affixed on the secured asset & uploaded on the website, and maintain a 30-day gap from the date of actual sale, respectively. Despite the variance in the manner in which the notice of sale is to be given or effectuated under the aforesaid rules, it nevertheless continues to be one single composite notice only."

49. In the present matter, publication in newspapers, affixation on the property and participation of the public at large in the auction process demonstrate substantial compliance with the statutory scheme.
50. The challenge raised by the Applicants is essentially founded upon alleged procedural irregularity. However, it is now well settled that every procedural irregularity does not ipso facto render an auction sale void. The borrower is required to demonstrate substantial prejudice or injury resulting from such alleged non-compliance.
51. In view of aforesaid discussion, this Tribunal is of the opinion that mere irregularity or deviation from a rule that does not have any fraudulent procedural error does not take away foundation of validity for such a proceeding. In such cases, this Tribunal should be mindful to refrain itself from entertaining any ground for challenging an auction, which either could have been taken earlier before the sale was conducted and confirmed or where no substantial injury has been caused on account of such irregularity, as it was held recently by Hon'ble Apex Court in Celir LLP V/s. Ms. Sumati Prasad Bafna and others in Contempt Petition (C) Nos.158-159 of 2024 in Civil Appeal Nos.5542-5543 of 2023 as under:

"Any sale by auction or other public procurement methods once already confirmed or concluded ought not to be set-aside or interfered with lightly except on grounds that go to the core of such sale process, such as either being collusive and fraudulent. Mere irregularity or deviation from a rule that does not have any fundamental procedural error does not take away the foundation of authority for such a proceeding in such cases, courts, in particular, should be mindful to refrain entertaining any ground for challenging an auction which either could have been taken earlier before the sale was conducted and confirmed or where no substantial injury has been caused on account of such irregularity."

52. In the present case, no material has been placed on record by the Applicants to show that any purchaser was available to offer a substantially higher amount. Mere technical objections without proof of actual prejudice cannot constitute a valid ground to annul a concluded sale.
53. It is further pertinent to note that the auction in question was not the first attempt undertaken by the secured creditor. The record reveals that several earlier attempts for sale of the secured asset had failed. The Applicants did not avail any of the opportunities granted over the years to regularize the account or discharge the outstanding liability. Even after becoming aware of the auction proceedings, the Applicants did not tender the entire dues of the secured creditor so as to exercise any right of redemption.
54. The valuation reports obtained by the Respondent Bank from approved valuers assessed the market value of the secured asset at approximately Rs.1.26 Crores, whereas the property was ultimately sold for Rs.1.56 Crores. Thus, the secured asset fetched a price substantially higher than the valuation. Consequently, the allegation that the property was sold at a throwaway price or for grossly inadequate consideration is wholly devoid of merit.

55. This Tribunal also finds no material indicating fraud, collusion, mala fides, cartelization of bidders or manipulation of the auction process. The auction was conducted through the prescribed e-auction mechanism and the highest bid was accepted in accordance with law. In absence of fraud or collusion, the concluded sale deserves protection.
56. The rights of an auction purchaser under the SARFAESI Act stand on a distinct footing. Once the sale is confirmed, the entire consideration is paid and the Sale Certificate is issued, valuable proprietary rights accrue in favour of the auction purchaser. Such rights cannot be lightly defeated at the instance of a defaulting borrower.
57. In **Sadashiv Prasad Singh v. Harendar Singh & Ors., (2015) 5 SCC 574**, the Hon'ble Supreme Court held that a bona fide auction purchaser who has participated in a public auction and deposited the sale consideration should not ordinarily suffer for disputes inter se between the borrower and the secured creditor. The Court recognized that protection of bona fide auction purchasers is necessary to preserve public confidence in judicial and statutory sales.
58. Similar principles have been reiterated in **Authorised Officer, Indian Overseas Bank v. Ashok Saw Mill, (2009) 8 SCC 366** and subsequent decisions, wherein it has been observed that the SARFAESI mechanism seeks not only to protect borrowers from arbitrary action but also to ensure certainty and finality in transactions concluded through statutory auctions.
59. In the present case, Respondent No.2 participated in the auction as a bona fide purchaser for value. There is nothing on record to suggest that Respondent No.2 was in collusion with the Respondent Bank or had notice of any alleged irregularity. After payment of full sale consideration, a Sale Certificate dated 27/12/2022 came to be issued and thereafter a registered Sale Deed dated 12/05/2023 was executed. Physical possession was also delivered. Therefore, equities have decisively crystallized in favour of Respondent No.2.

60. Having regard to the entirety of the material available on record, this Tribunal is satisfied that:

- (i) The Respondent Bank substantially complied with the requirements of the Security Interest (Enforcement) Rules, 2002;
- (ii) The Applicants have failed to establish any substantial prejudice caused to them;
- (iii) The secured asset fetched an adequate and fair price;
- (iv) No fraud, collusion or material irregularity affecting the integrity of the auction process has been proved; and
- (v) Valuable rights have accrued in favour of the bona fide auction purchaser.

61. Consequently, the challenge to the auction sale, Sale Certificate and subsequent conveyance in favour of Respondent No.2 is devoid of merit and deserves to be rejected.

Issue No.3 is accordingly answered in affirmative.

Issue No.4: Relief:

62. While concluding this Judgment, a reference deserves to be made to the judgment of **Hon'ble Supreme Court of India in the case of Arce Polymers Pvt. Ltd. Vs. M/s. Alphine Pharmaceuticals Pvt. Ltd. and others in Civil Appeal No.7372/2021 dated 03/12/2021:-**

"18. In the present case, it is clear from a bare perusal of the letter dated 7th November 2016 sent by the Bank to its Zonal Manager that the Bank actively considered the Borrower's request for extension of the moratorium period. The Borrower did not submit the viability report and failed to bring in Rs. 45,00,000/- (Rupees forty five lakhs only). Post this default also there were negotiations with assurances and promises by the Borrower. Displaying forbearance, the Bank granted indulgence as action under the SARFAESI Act was deferred for nearly one year from 7th November 2016 till 6th October 2017. Thereafter, negotiations were held on 30th October 2017, 6th November 2017 and 8th November 2017. The email dated 30th November 2017 addressed by the Bank to the Borrower highlights the dilatory and tricky approach of the Borrower as it had failed to submit details of the

additional collateral security offered along with the legal opinion and the engineer's valuation report. Even visit to the proposed collateral security property was not arranged. The Borrower again tried its luck and submitted a restructuring proposal vide communication dated 18th December 2017, but this did not fructify into an acceptable settlement. The Bank having lost faith could not rely on the Borrower. Only thereafter, the Bank proceeded with the auctions under the SARFAESI Act on 28th March 2018 and 14th June 2018. The Borrower then kept silent. As the earlier auctions failed, the Bank issued notice dated 20th August 2018 informing the Borrower about the fourth auction to be held on 11th September 2018 at a reduced reserve price. The Borrower challenged the actions taken by the Bank after the Subject Property had changed hands and third party interests had been created. Taking into consideration the entire facts of the case, which perspicuously reflect disingenuous conduct on part of the Borrower to gain indulgence, unfulfilled assurances and promises, their unwillingness to pay, and in light of the law laid down by this Court, we are of the view that the Borrower has waived and is estopped from challenging violation of Section 13(3A) of the SARFAESI Act and hence, the first issue is decided in favour of the Bank. Given the aforesaid position, we do not think we are required to examine the second point, i.e. whether in an application under Section 17 of the SARFAESI Act, which can be filed when a Borrower is aggrieved by any of the measures referred to in sub-section (4) to Section 13 within forty five days from the date such measures are taken, the Borrower can challenge other measures, steps and procedures which preceded the ultimate sale even if barred by the limitation period of forty five days."

63. The OTS offers dated 22/04/2022 and 07/07/2022 submitted by the Applicants indicate acknowledgment of the dues claimed by the Respondent Bank. In view of the facts and circumstances of this case and aforesaid observations of Hon'ble Supreme Court of India, this Tribunal is of the opinion that the Applicants are estopped from challenging the measures taken by the Respondent under SARFAESI Act and doctrine of estoppel is squarely applicable in this case.
64. In view of above discussions, the present SA being devoid of any merit **deserves to be dismissed and disposed of, along with Interim Applications, if any, with no order as to cost.** Interim relief, if any, also stands vacated.


Order accordingly.

No other point has been raised before this Tribunal by Ld. Counsel for either parties.

Let copies be supplied as per rules.

File be consigned to record.

Pronounced in the Open Tribunal on 24th June, 2026.


(PANKAJ KUMAR UPADHYAY)
PRESIDING OFFICER
DRT-II, AHMEDABAD

Saloni