

DEBTS RECOVERY TRIBUNAL-I, CHANDIGARH

SA No. 175 of 2017

M/s Ganesh Rice Mills and others

Versus

SBI

**Dated: 22.06.2026**

Item No. (Supplementary-3)

Argued by: Mr.Karan Nehra and Mr. Abhay Josan, Counsel for the Applicants.

Mr.Rakesh Gupta and Mr. Yogesh Kumar, Counsel for Respondent Bank.

M/s Ganesh Rice Mills and others (Applicants) have filed this Securitization Application under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), against SBI (Respondent).

2. Admittedly, Applicant No. 1 was enjoying credit facilities from SBI for quite some time. *Vide* agreement dated 09.10.2015, Applicant No. 1 was sanctioned CC Limit of Rs. 14 crores; Term Loan-I of Rs. 3.37 crores; Term Loan-II of Rs. 1.63 crores and Rs. 1.80 crores in the form of short Term Loan. Applicant Nos. 2 to 7 were the guarantors in their personal capacity. The credit facilities were secured by equitable mortgage of properties and hypothecation of entire goods. On 28.06.2016, Bank declared the account NPA.

3. On 16.03.2017, Applicants filed the present SA with the averments that vide partnership deed dated 12.07.2010, Applicant No. 1 was constituted as partnership firm, comprising Applicant No. 2 and 4 as partners. Applicants had availed credit facilities from the Respondent Bank, which were renewed from time to time. The last renewal was done on 25.04.2015 for Rs.23.84 crores. On 19.08.2015, there was change in the Constitution of the partnership firm and in place of Applicant No. 4, Applicant No. 3 joined as partner. The intimation was given to the Bank and the Bank had no objection to the change in the

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Constitution. Applicants state that on account of certain family disputes, a family settlement was required to be executed pertaining to the farmhouse of Applicant No. 2 and 3, vide which Applicant No. 4 had to transfer his property to his wife and Applicant No. 2 had to transfer his property to the wife of Applicant No.5. As a matter of fact, various properties were mortgaged with the Bank. On account of distress and recession in the business, there arose family disputes among the family members. The aforesaid properties were transferred to members of the family by Applicant No. 2 and 4. However, the properties were already mortgaged with the Bank. On 11.07.2016, Bank wrote a letter to the Applicants stating that properties were mortgaged with the Bank and as per the terms and conditions of the loan, Applicants could not transfer those properties to anybody, during the currency of mortgage. Applicants state that on 24.07.2016, they had written to the Bank that they were ready to furnish additional collateral security of the same value. However, on 25.07.2016, Bank issued the notice under Section 13(2) of the SARFAESI Act. In the said notice, it was stated that the account had been declared NPA on 28.06.2016. Applicants state that before declaring the account NPA, no intimation was given to them. As per notice under Section 13(2), the Bank claimed Rs. 21,14,28,605/-. Applicants state that the Bank did not send any notice to the guarantors. In September 2016, they requested the Bank to restructure their account and many meetings were held. Applicants tried to explain their position. However, there was no response. On 20.10.2016, Bank issued a certificate stating that the account is sub standard and the bank will not take the possession of any stock kept by any procuring agency of the State Government for custom milling purpose. The Bank also assured that they would not take the possession. On 16.12.2016, Applicants filed the objections under Section 13(3A) of the SARFAESI Act. In the objection/representation, Applicant No. 1 highlighted the reason for non-payment of interest. However, the bank never responded to the objections. In the meanwhile, RBI issued

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restructuring guidelines titled 'Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises, dated 17.03.2016 for revival of MSME units. The case of the Applicants was covered by the said guidelines. However, the Bank did not constitute any committee as required under Clause 3.3. Applicants invoked Clause 2.3 of the said guidelines to get their case considered for restructuring after opportunity of hearing. A proposal regarding the same was submitted on 19.12.2016 (Annexure A-11). Applicants have alleged that the Bank realized that it had wrongly recalled the loan without considering the request for restructuring and against the RBI guidelines dated 17.03.2016. Accordingly, bank withdrew the action for recalling the loan. Applicants allege that this means the Bank had withdrawn the earlier notices. The proceedings of Designated Committee were duly communicated vide letter dated 12.01.2017 (Annexure A-12). On 23.01.2017, Applicants responded and stated that they were not given opportunity of hearing and stated that the action of the Bank was not as per law. On 21.01.2017, Bank asked the Applicants to provide latest statement of account and provisional balance sheet. Applicants responded to the same by stating that in case bank agrees for restructuring, working capital can be arranged from the family members, who have assured to contribute and infuse funds into the firm. Applicants requested for 40 days time. However, the Bank without considering the request, on 06.02.2017, issued the possession notice. Bank admitted that the demand notice had been served only upon the borrowers. On 13.02.2017, Applicant requested the Bank for redemption of two farmhouses in the name of Applicant no. 2 and 7 by depositing Rs. 80 lacs each before 31.03.2017 and 30.06.2017. However, Bank never considered this proposal.

4. On these facts, Applicants filed the present SA and stated that the Bank had not served the demand notice dated 25.07.2016 upon all the Applicants. The possession notice dated 06.02.2017 also did not state that the demand notice had been served upon all the Applicants. There was no publication of

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the possession notice. Further, the Bank did not follow proper procedure. Applicant No. 1 had submitted objections dated 16.12.2016 under Section 13(3A). However, the Bank did not dispose of the same within 15 days. Applicants alleged that since the Bank did not dispose of the objections, it could not issue the possession notice under Section 13(4) of the SARFAESI Act. Applicants allege that the account was wrongly declared NPA against RBI circular. Again, the Bank failed to take into consideration that the temporary deficiencies were to be ignored. Bank also violated Section 26D of the SARFAESI Act, 2002. Applicants had never hypothecated plant and machinery. Further, Bank violated RBI guidelines dated 17.03.2016. Bank did not give personal hearing to the Applicants. Thus, there was violation of the principles of natural justice. Applicants had made request for redemption of two farmhouses, on the payment of Rs. 1.60 crores. However, bank did not release the properties. Applicants have alleged that the all properties available with the Bank are agricultural properties. Applicants allege that till their proposal for settlement was pending, the Bank was not justified in issuing the notice under Section 13(4). Applicants were never intimated before declaring the account NPA. Applicants allege that various properties were mortgaged. However, Bank chose to proceed against farm house property first. On these facts, Applicants prayed that the notice under Section 13(2), dated 25.07.2016 and possession notice dated 06.02.2017 and other SARFAESI action be set aside.

5. Bank, in reply to the SA, has denied the case of the Applicants. Bank has alleged that it had advanced credit facilities to the tune of Rs. 20.80 crores, vide sanction letter dated 09.10.2015. Applicants failed to deposit monthly installment in respect of Term Loan account. Applicants also failed to service interest in the CC account. Applicants did not maintain financial discipline and the account turned NPA on 28.06.2016. As on 02.03.2017, a sum of Rs. 23,63,45,238.50p was due. On 25.07.2016, Bank issued the notice under

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Section 13(2) of the SARFAESI Act. On 16.12.2016, Applicants filed the objections. Applicants requested for restructuring. The said request could not be considered. Earlier restructuring proposals submitted by the Applicants were rejected by the Competent Authority on 09.12.2016, which were duly communicated to the Applicants. On 06.02.2017, Bank issued the notice under Section 13(4). The said notice was duly published in The Tribune-English and The Tribune-Punjabi, dated 10.02.2017. The possession notice was also affixed on the property. On 23.05.2017, DM granted the permission for taking the possession of the secured assets. Bank alleged that the Applicants have concealed material facts from this Tribunal. Bank has alleged that the Applicants had hypothecated plant and machinery to secure the loan. Applicants had transferred the properties during the currency of mortgage, which could not be done as per the Terms and Conditions of the loan. Applicants had submitted restructuring proposal on 07.09.2016, which was rejected by the Bank on 09.12.2016. The intimation was duly communicated to the Applicants on 12.01.2017. There were no assurance by the Bank not to take the possession. Bank has alleged that the Applicants had committed malfeasance. As per RBI guidelines dated 17.03.2016, fraud accounts are not eligible for restructuring. Bank admitted that Applicants had made proposal for redemption of farmhouses. Bank alleged that the value of the property was Rs. 2.34 crores. Accordingly, the question of accepting Rs. 1.63 crores did not arise. Bank alleged that the all the notices were duly served upon the borrowers as well as guarantors. Applicants themselves have admitted that they were not having sufficient stocks. Accordingly, submission of the stock statement did not arise. Applicants had not submitted the sale proceeds of the stocks to the Bank. Bank denied that the properties were agricultural. Bank denied that the Applicants had submitted any OTS proposal. They had only submitted restructuring proposal, which was rejected by the Bank.

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Accordingly, it is submitted that there is no merit in the present SA and the same be dismissed.

6. I have heard Mr. Karan Nehra, counsel for the Applicants and Mr. Rakesh Gupta, counsel for the Respondent Bank.

7. Both the parties have also filed the written submissions.

8. Assailing the SARFAESI action, Mr. Nehra, counsel for the Applicants has argued that the Bank did not serve the demand notice dated 25.07.2016 on Applicant Nos. 4 to 7. Bank has also not produced on the record any acknowledgment receipt. On 07.09.2016, Applicants had submitted proposal for restructuring. However, the Bank did not respond to the same. Again, on 16.12.2016, Applicants had submitted detailed representation to the Bank. The Bank was required to dispose of the same within fifteen days. However, Bank did not dispose of the objections. The Hon'ble Supreme Court in Mardia Chemicals has held that the objections should be disposed of. Applicants had requested for rehabilitation on the basis of the RBI circular dated 17.03.2016. As per Section 21 and 35A of the Banking Regulation Act, the instructions given by the RBI are binding on the Banks. As per RBI circular dated 17.03.2016, Applicants should have been given personal hearing by the Committee. However, in the case in hand, Bank did not give them personal hearing. The intention of the Bank should be to rehabilitate the unit than to close it down. Mr. Nehra placed reliance upon the judgment passed in M/s Amrit Enterprises versus Corporation Bank. Mr. Nehra further submitted that the Hon'ble Punjab and Haryana High Court in M/s Technico Strips and Tubes Private Limited and another versus Deutsche Bank AG another has held that DRT can go into the aspect of classifying the account as NPA. Bank rejected the restructuring proposal of the Applicants on 12.01.2017. Further, Bank did not include a Government nominee in the proceedings. Bank did not publish the possession notice in the newspapers. Again, some properties were

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agricultural in nature. Applicants have produced a valuation report. From the valuation report it is clear that the properties were agricultural. As per Section 31(i) of the SARFAESI Act, the said properties are exempt from the provisions of the SARFAESI Act. Further, Applicants have filed IA No. 339 of 2017 for release of the house by making payment of the existing market value. Again, in the demand notice, the machinery was not mentioned. As per Section 13(3) of the SARFAESI Act, the Bank was under obligation to give the details of secured assets in respect of which it wanted to take action. Again, the property was not registered with CERSAI portal and thus, there was violation of Section 26D of the SARFAESI Act. Again, the Hon'ble Supreme Court in ITC versus Blue Coast Hotels has held that the provisions of Section 13(3A) are mandatory. Winding up his arguments, Mr. Nehra submitted that the Bank did not proceed as per law and thus, the SARFAESI action is liable to be set aside.

9. *Per contra*, Mr. Gupta, counsel for the Respondent Bank submitted that there is no merit in the present case. Applicants have averred that Applicant Nos. 4 to 7 were not served with the notice under Section 13(2). Mr. Gupta submitted that as per Section 27 of the General Clauses Act, there is presumption of due service when properly addressed letter is sent by registered post. Mr. Gupta submitted that Applicants are residents of the same address. In case, notices were served upon Applicant No. 1 to 3, the question of the same being not served upon Applicant No. 4 to 7 did not arise.

10. Regarding the representation dated 07.09.2016, Mr. Gupta submitted that the same was for restructuring of the loan account and Applicants had not pointed out any discrepancies in the SARFAESI action. Further, Applicants were fully aware that their business was going downhill. Applicants had created third party interest in the mortgage properties, without the permission of the Bank. *Vide* letter dated 19.07.2016, Bank had asked the Applicants to present its position regarding alienation. Further, Mr. Hakam Chand

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(Applicant No. 7) had produced a copy of appeal filed before SDM-cum-Assistant Collector for cancellation of transfer deed. He had promised to get the transfer deed cancelled. Bank had forwarded the request for restructuring. However, the same was rejected by the bank on 09.12.2016 on the ground that in malfeasance case there cannot be any restructuring. The borrowers were duly informed about the same, vide letter dated 12.01.2017. Applicant No. 7 has not produced on the record any material showing the cancellation of transfer deed. On 16.12.2016, Applicants had made another representation. Since, Applicants had already submitted the representation on 17.09.2016, which had been rejected, the Applicants were not eligible for restructuring as per RBI guidelines dated 17.03.2016. Again, subsequent representation cannot be considered as the representation to the demand notice under Section 13(2).

11. Regarding personal hearing, Mr. Gupta submitted that since Applicants were not eligible on account malfeasance, the question of personal hearing did not arise. Further, the possession notices were duly served upon the Applicants. The possession notice was also published in the newspapers and affixed on the secured assets. Applicants have alleged that the secured assets are agricultural land. However, the contention is misconceived. All the properties are non-agricultural. Rice sheller is built on the part of the properties. Applicants have not produced on the record any material to show that they were using the properties for agricultural purpose. As per the valuation report, the properties are vacant plot and mixed industrial and agricultural area. Further, the Bank has sold four properties in the year 2020. Applicants have not challenged the same. Regarding the certificate dated 20.10.2016, counsel submitted that that same has got no bearing on the facts of the present case. It is denied that the properties were not registered with CERSAI portal. Winding up his arguments, Mr. Gupta submitted that the Applicants had committed fraud. They had tried to fritter away the security. Accordingly, Applicants are not entitled to any relief and the SA be dismissed.

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12. I have considered the rival contentions.

13. Admittedly, in the year 2015, SBI had sanctioned credit facilities to the tune of more than Rs. 20 crores to the Applicants. On 28.06.2016, Bank had declared the account NPA. ON 25.07.2016, Bank had issued the notice under Section 13(2) of the SARFAESI Act to the Applicants. On 06.02.2017, Bank had issued the possession notice to the Applicants. On 16.03.2017, Applicants filed the present SA.

14. Applicants have alleged that the Bank had not served the notice under Section 13(2) of the SARFAESI Act to Applicants No. 4 to 7. They have admitted that the said notice was served upon Applicants No. 1 to 3. I am of the considered view that there is no force in the contention of counsel for the Applicants that the notice was not served upon Applicant No. 4 to 7. It appears that all the Applicants are members of the same family. Further, Applicant No. 4 to 7 are also residing at the same address. It is not believable that though the notice under Section 13(2) was served upon Applicant No. 1 to 3, yet, it was not served upon Applicant No. 4 to 7. The contention is misconceived and the same is rejected.

15. Applicants have alleged that they are MSME unit and the Bank had not placed their case before the Designated Committee. They have placed reliance upon the judgment of the Hon'ble Supreme Court in Pro Knits versus Board of Directors of Canara Bank and others (2024) 10 SCC. However, I am of the considered view that there is no force in the contention of counsel for the Applicants. The Hon'ble Supreme Court in Pro Knits case has held as under:-

*d. --Held, the said Framework Instructions as modified, having statutory force, are binding on all scheduled commercial banks, licensed to operate in India by RBI*

*--Held, what is contemplated in the said Framework Instructions as modified, is required to be followed prior to the classification of the*

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*borrower's e account, (in the instant case MSMEs loan account), as non-performing assets—*

*However, if at the stage of classification of the loan account of the borrower as NPA, the borrower does not bring to the notice of the bank/creditor concerned that it is a Micro, Small or Medium Enterprise under the MSMED Act and if such an Enterprise allows the entire process for enforcement of security interest under the SARFAESI Act to be over, or it having challenged such action of the bank/creditor concerned in the court of law/tribunal and having failed, such an Enterprise could not be permitted to misuse the process of law for thwarting the actions taken under the SARFAESI Act by raising the plea of being an MSME at a belated stage*

*Thus, when it is mandatory or obligatory on the part of the banks to follow the said Framework Instructions as modified, it would be equally incumbent on the part of the MSMEs concerned to be vigilant enough to follow the process laid down under the said Framework Instructions, and bring to the notice of the Banks concerned, by producing authenticated and verifiable documents/material to show its eligibility to get the benefit of the said Framework Industry, Trade, Development and Business Laws Industrial Development/Industrialization-Micro, Small and Medium Enterprises Development Act, 2006 Ss. 9 and 10-Service Law - Banking Regulation Act, 1949 Ss. 21 and 35-A-RBI [Lending to Micro, Small and Medium Enterprises (MSME) Sector] Directions, 2016-MSME Revival and Rehabilitation Framework Instructions, dt. 29-5-2016 (Paras 14, 17 and 21).*

16. Applicants have not placed on the record any material that they had ever requested the Bank to place their case before the Designated Committee before the account was declared NPA. Be that as it may, Bank has produced on the record the material that they had placed their case before the Designated Committee. However, the Designated Committee, *vide* their proceedings, dated 09.12.2016, rejected the request. However, Applicants have alleged that they were not given personal hearing by the Designated Committee. On the

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other hand, the case of the Bank is that Applicants had committed acts of malfeasance and as per RBI guidelines dated 17.03.2016 in case the borrower commits malfeasance then his case cannot be considered for restructuring. Applicants have admitted that they had transferred their properties after creation of mortgage. Admittedly, Applicants were not entitled to transfer the properties. In these circumstances, the Bank was justified in not granting personal hearing to the Applicants. Applicants have alleged that some of the properties are agricultural in nature. However, there is nothing on the record that at the time of creating security interest, the properties were agricultural in nature. Bank has sold four properties. Applicants have not challenged the same. There is no force in the contention of counsel for the Applicants that security interest was not registered with the CERSAI portal. The Bank had taken the action prior to 24.01.2020 when the registration of CERSAI was made mandatory. That apart, Bank has produced on record the material that the properties were duly registered with the CERSAI portal.

17. Having considered whole of the case of the Applicants, I am of the considered view that there is no merit in the present SA. The same is hereby **dismissed**.

18. All the pending IAs, if any are also stand disposed off accordingly.

Registrar is directed to send a copy of this order to all the parties, as per rule. Thereafter, file be consigned to record room after due compliance.

Pronounced in open court  
Dated: 22.06.2026  
Manoj

(A S Narang)  
Presiding Officer  
DRT-I, Chandigarh