

**IN THE DEBTS RECOVERY TRIBUNAL-II, BANGALORE**

Dated this 19<sup>th</sup> Day of June, 2026

**PRESENT: SHRI T. RAJESH**

Hon'ble Presiding Officer

**S.A. No. 179 of 2024**

**BETWEEN:**

1. M/s. R.R. Exports  
A partnership firm  
No.39/40, 11<sup>th</sup> Main Road,  
Nrupatunga Nagar, J P Nagar 7th Phase,  
Bengaluru-560078  
Rep. By its Partners

2. Sri. N. Vishwanath  
Son of H.V. Nagaraja Jetty  
Aged about 52 years  
Partner: M/s. R.R. Exports  
No.243/1, I Floor, 11<sup>th</sup> Main,  
RBI Layout, J P Nagar 7<sup>th</sup> Phase  
Bengaluru – 560078

3. Sri. K. Ravikumar  
Son of Krishnappa  
Aged about 51 year  
Partner: M/s. R.R. Exports  
No.505, 13<sup>th</sup> A Cross  
29<sup>th</sup> Main, JP Nagar I Phase,  
Bengaluru-560078

**. . . Applicants**

**AND:**

1. The Authorised Officer  
M/s. Indian Bank  
No.590, 24<sup>th</sup> Cross, 14<sup>th</sup> Main  
Banashankari 2<sup>nd</sup> Stage,  
Bangalore – 560070

2. Mr. Umesh  
Son of L Mallesh  
No.40, Resident of No.1, 1<sup>st</sup> Main Road,  
1<sup>st</sup> Cross, Near RBI Eswar Layout,  
Kodipalya, JP Nagar 7<sup>th</sup> Phase,  
Bengaluru – 560062

. . . Respondents

**Ld. Counsels on record / appeared :-**

Counsel for Applicant :- Sri. M.A. Rajendra  
Counsel for Respondent No.1 :- M/s. M V Kini Law Firm  
Counsel for Respondent No.2 :- Sri. Shreedhar G Bidre

**: - O R D E R - :**

1. This Securitization Application in short (SA) is filed with a prayer to set aside the sale certificate dated 15.04.2024 issued pursuant to e auction dated 14.12.2023 purportedly conducted as per the provisions of SARFAESI Act, hereinafter called as Act.

2. This application is filed under S.17 of the Act, contending as follows:  
The applicants are the borrowers having availed credit facilities and had executed security in view of the same. It I stated that the measures are continued without following the mandate of serving the demand notice and also not following the prescribed rules for taking possession of the property. The applicant is also contending that, there is no security interest created over the property. The applicant further submits that though they impugned the S.14 measures, by approaching the Hon'ble High court by filing WP.No.18478/2023 which came to be disposed of on 06.02.2024 relegating the applicant to approach this Tribunal within 3 weeks from the date of the

Order. The applicant further contends that, they are ready to regularize the account. It is also case of the applicant that, the measures initiated and continued by the respondent including one of taking possession of the property is without following the statute and on coming to know about the auction had conducted the applicant has sought for the details of the auction purchaser which was not forthcoming from the side of the respondent. In the grounds to the SA, the applicant had reiterated his challenge as to the S.14 measures and also as to the alleged non compliance of Rule 3 and Rule 8 of the SIE Rules. Apart from the above the applicant is also putting forth the grounds that, the property had been sold clandestinely for a meager sum of Rs.6,90,22,000/- against its actual value of Rs.13.00 crores. It is also contended that the issuance of sale certificate dated 15.04.2024 is bad in law and liable to be set aside. Along with the SA the applicant has produced the following documents:

- i) order in C.Misc.No.4926/2023
- ii) copy of the order in WP No.18478/2023
- iii) notice dated 27.03.2024
- iv) reply dated 04.04.2024
- v) sale certificate dated 15.04.2024

3. Despite, the respondents being served, the 1<sup>st</sup> respondent filed the objections contending as follows: The applicant having failed to challenge

the demand notice dated 02.05.2023 and possession notice dated 11.07.2023 and the orders passed under S.14 is not entitled to challenge the said measures in this SA challenging belatedly impugning the sale certificate. It is also contended that, the applicant have no right title and interest in the mortgaged property, as the property had already been sold in favour of the additional respondent and the sale certificate already been issued. The respondent had already contended that, the application is time barred and liable to be dismissed on that ground. In rebutting the contention in the SA, the respondent contends that, the demand notice dated 02.05.2023 had been issued in due compliance of Rule 3 of the SIE Rules and there are no flaws in procedure as the demand notice is also served. Since the repayments were not made despite issuance of the demand notice, the possession notice was issued, published and affixed in compliance of the Rule 8 of the SIE Rules. With regard to the S.14 measures, it is stated that the actual possession of the property had been already taken pursuant to the orders of the Ld. Magistrate. In respect of the sale notice leading to the issuance of impugned sale notice, it is contended that, the same is also duly served as mandated under the act. It is also pointed out that, the applicants' right of redemption if any, had been lost as the sale certificate is already issued. It is also the case of the respondent that, since the applicant failed to file the application within 45 days from the date of disposal of the writ petition by the Hon'ble High court, the SA is

liable to dismissed on the ground of delay. Apart from the above, the respondent had given parawise rebuttal of the contention as taken in the SA. Along with the objections the respondent had produced the following documents:

- i) Demand notice dated 02.05.2023
- ii) the postal acknowledgment cards for having received demand notice by the applicants.
- iii) Paper publication made by the respondent No.1 bank regarding demand notice dated 02.05.2023
- iv) Possession notice dated 11.07.2023
- v) The postal receipts for having sent possession notice to the applicants
- vi) Paper publication made by the respondent No.1 bank regarding possession notice dated 11.07.2023
- vii) The copy of the petition criminal Misc Case No.4926/2023 filed by the respondent bank U/s.14 of the Act
- viii) The copy of the Affidavit of criminal Misc Case No.4926/2023 filed by the respondent bank U/s.14 of the Act
- ix) the copy of the order dated 08.11.2023 passed in criminal Misc Case No.4926/2023 filed by the respondent bank U/s.14 of the Act
- x) the copy of the sale notice dated 27.11.2023
- xi) the copy of the postal receipts and postal acknowledgments cards
- xii) the copy of published sale notice dated 27.11.2023 in kannada news paper
- xiii) the copy of the published sale notice dated 27.11.2023 in English newspapers
- xiv) valuation report of the mortgage properties

xv) The copy of the letter dated 16.12.2023 the sale confirmation sent to the purchaser

xvi) the copy of the registered certificate of sale dated 15.04.2024

xvii) the copy of the CERSAI letter for having registered the charge by the first respondent bank with central registry.

4. The respondent No.2 had filed the reply statement inter alia contending that, the case of the applicants, the facet of the which is mainly relied upon the non-service of the demand notices and possession notices on the ground of non-compliance of the provisions mandated under the Act is false and liable to be rejected as the threshold on the ground of the notices being served on the registered address which is specified by the applicant itself.

5. It is contended that, the respondent No.1 after full payment of consideration by the respondent No.2 executed the sale in favour of the respondent No.2 vide certificate of sale dated 15.04.2024 and for a total sale consideration of Rs.6,90,22,000/- and added registration charges of Rs.6,90,220/- along with stamp duty to the extent of Rs.34,51,100/-. Apart from the above, the respondent had given parawise rebuttal of the contention as taken in the SA. Along with the objections the respondent had produced the following documents:

- i. copy of the notice under S.13(2) of the SARFAESI Act dated 02.05.2023
- ii. copy of the order sheet in WP.No.18478/2023

- iii. copy of the publication dated 27.11.2023
  - iv. copy of the E-mail dated 15.12.2023
  - v. copy of the letter dated 16.12.2023
  - vi. copy of Axis Bank loan statement
  - vii. copy of the Karnataka Bank Loan Statements
  - viii. certificate of sale dated 15.04.2024
  - ix. copy of the demand notice by BWSSB dated 03.07.2024
  - x. copy of the Khatha and documents issued by the BBMP in favour of the respondent No.2
6. Heard the submissions of counsels for both sides and perused the records.
7. The following issues arise for consideration.
- i. Whether the measures initiated and continued by the respondent leading to the issuance of the impugned sale certificate is in accordance with the mandate of statute.
  - ii. Whether the sale certificate issued by the respondent can independently challenge without any challenge as to the conduct of the sale or validity of the sale

Issue No.1

Whether the measures initiated and continued by the respondent leading to the issuance of the impugned sale certificate is in accordance with the mandate of statute.

8. The Ld. Counsel for the applicant submits that, despite the detailed objections filed, the respondent had not produced the proof of affixture of the demand notice though the proof as to the publication and dispatch of demand notice is published. It is also pointed out that, there is no evidence to prove that the demand notice sent to Kausalya Vishwanath and Poornima Ravikumar as no proof of service on those persons were produced along with the objections. Hence, on the contention there is no compliance of mandate as to the affixture, the Ld. Counsel for the applicant submits that, the measures are to be interfered on the said ground alone. In respect of the possession notice also, it is stated that, the possession notice is not dispatched in favour of the first applicant, a partnership firm which is the borrower of the liability.

9. Even though, the above contention seems to be interesting, this Tribunal is not inclined to interfere with the measures on the above ground for the following reason. First of all, it is admitted by the applicant that, the applicant had already approached the Hon'ble High court by filing WP.8498/2023, wherein the sale notice dated 19.07.2023 had been challenged and the applicant had been relegated to this Tribunal permitting the applicant to file the SA within the 3 weeks and granted a protection order for a short period. Even though the writ petition is disposed of on 06.02.2024 and the copy of the order has been delivered on 24.02.2024, the present application is filed only on

21.04.2024 much beyond the time granted by the Hon'ble High court. However, from the admitted pleadings from the case it is clear that, the respondent had obtained S.14 order from the Ld. Magistrate. In respect as to the challenge of measures legality of issuance of demand notice, possession notice and S.14 order is concerned, it is to be noted that, the mandate of the statute requires every measure initiated by the secured creditor needs to be challenge within 45 days from the said cause of action as the S.17 of the Act reads as follows:

**17. [Application against measures to recover secured debts.] [Substituted 'Right to appeal' by Act No. 44 of 2016.]**

(1) Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorised officer under this Chapter, [may make an application along with such fee, as may be prescribed,] [Substituted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 10, for "may prefer an appeal" (w.r.e.t. 21.6.2002).] to the Debts Recovery Tribunal having jurisdiction in the matter within forty-five days from the date on which such measures had been taken:[Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.] [Inserted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 10 (w.r.e.t. 21.6.2002).](Emphasis supplied)

10. In view of the mandate of S.17 it is to be held that, if at all the applicant is having failed to put forward any challenge as to the legality of the measures in respect of issuance of demand notice, possession notice and act of taking actual possession cannot be allowed to take up the

challenge belatedly. The person is sleeping over his right, cannot woke up on later stage and challenge the measures beyond the time specified under the statute contending that, the measures are culminated without following the procedures as mandated under the same.

11. It is also evident from the facts of the case that, the sale certificate is not issued in pursuant to the sale conducted following the first sale notice as admittedly the applicant does not have the case that, the impugned sale is conducted without a 30 days' notice. Hence, from the pleadings, it is evident that, the respondent had earlier issued another sale notice, which was under challenged before the Hon'ble High court. It is to be noted that, if at all the applicant is having a case as to the alleged non compliance of Rule 3 and Rule 8 of SIE Rules leading to the issuance of the said sale notice, the applicant should have persuaded the matter as directed by Hon'ble High court by its judgment dated 06.02.2024. The prayer sought for in the writ petition is to set aside the sale notice dated 9.07.2023 and the Hon'ble High court had given permission to the applicant to approach this Tribunal. Despite such permission been granted and a timeline being fixed by the Hon'ble High court, the applicant had failed to challenge the said sale notice as directed by the Hon'ble High court. Having failed to do so, the applicant is estopped from challenging the measures leading to the issuance of the above sale notice dated 19.07.2023. Needless to say, the applicant

having failed to challenge the measures leading to 19.07.2023 despite being permitted by the Hon'ble High court cannot allowed to be re visit the legality of the measures leading to the said notice and contend that, the measures leading to issuance of said sale notice has to be re visited again while challenging a subsequent step.

12. The sale certificate is challenging and contending that, the sale notice is issued by the respondent is not duly served as the sale notice was dispatched only on 27.11.2023 and paper publication is done on 29.11.2023. It is also pointed out that, from the postal track record it is clear that, the notice is dispatched only on 28.11.2023 and returned a with endorsement that door locked on 29.11.2023. Hence according to the applicant from the date of publication and from the date of deemed service of notice both are on 29.11.2023, there is no clear 15 days in conducting the sale as the sale had been conducted on 14.12.2023. There for the Id. Counsel for the applicant contends that, if one of the days in between 29.11.2023 and 14.12.2023 excluded as mandate under General clause of Act, it is to be held that, there is no clear 15 days' notice in issuance of the sale notice leading to the Sale Certificate under challenge.

13. Even assume that the contention of the applicant that there is no 15 days' notice in conducting the sale on 14.12.2023, after publishing the sale notice on 29.11.2023 is true, this Tribunal is not inclined to interfere

with the said ground as there is no valid challenge as to the sale conducted on 14.12.2023. Even though the applicant contends that, the respondent had failed to mention subsequent measures including the issuance of subsequent sale notice and conduct of sale when the matter was taken up by the Hon'ble High Court on 06.02.2024 and when the order was passed by the High Court where by the applicant was permitted to approach this Tribunal impugning the measures, the same cannot be a ground to interfere in this SA, as this Tribunal is not competent to decide the conduct of parties before the High court and can only follow the literal meaning of the judgment of the Hon'ble High Court. The applicant having fail to challenge the sale notice and sale held on 14.12.2024 cannot be allowed to contend that the sale certificate issued following is to be set aside without any valid challenge as to the conduct of sale.

14. In view of the above, this Tribunal is of the view that, the issue No.I is to be decided against the applicant.

Issue No.II

Whether the sale certificate issued by the respondent can independently challenge without any challenge as to the conduct of the sale or validity of the sale

15. The applicant is challenging the Sale Certificate without challenging the impugned sale notice and consequential Sale. Section 17 empowers this Tribunal to go into the legality of measures leading to S.13(4) of the act and nothing more than that. Hence going by the language of S.17 it is clear that, the scope of interference of this Tribunal in these measures is limited to a legality of 13(4) measures and nothing beyond that.

S.13(4) of the act:

### Section 13(4) in The Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002

(4) In case the borrower fails to discharge his liability in full within the period specified in sub-section (2), the secured creditor may take recourse to one or more of the following measures to recover his secured debt, namely:

(a) take possession of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset;

(b) [ take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset: *[Substituted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004, Section 8 (30 of 2004), for Cl.(b) (w.e.f. 11.11.2004).]*

16. It is clear from S.13(4) that, the said measure is culminated by conduct of sale and the issuance of sale certificate is not envisaged under S.13(4) of the act. The issuance of Sale Certificate is only an administrative action by the secured creditor which is to be followed after successful conduct of the sale which is of course is a measure under

S.13(4). Considering the above it can be safely concluded that, only the measures leading to be conducted the sale and confirmation of the sale can be impugned under S.17 of the act and not administrative action following the confirmation of the sale i.e. the issuance of sale certificate. The issuance of sale certificate being consequential action following the conduct of the sale and the sale itself remains un challenged, there cannot be any separate challenge as to the issuance of sale certificate. Hence of the above reason, issue No.2 is also to be decide against the applicant.

17. In view of the discussions as held above and the findings entered in issue No.I and II, it is to held that, the applicant had failed to put forth any valid challenge as to the issuance of sale certificate and the SA filed impugning the sale certificate is liable to rejected.

18. Hence, on the above reason, the SA.No.179/2024 stands dismissed. All pending IAs stand closed. The parties to bear their respective costs. Copy of this order be communicated to the parties concerned.

*(Dictated to the Stenographer (PR), after her transcription and necessary corrections, signed and Order passed on this 19<sup>th</sup> day of June 2026)*

**(T. RAJESH)**  
**PRESIDING OFFICER**