

IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 23rd day of June, 2026

PRESENT: SHRI SHARANG DHAR UPADHYAY
Presiding Officer

IA No.533 of 2026 in
NDN (SA) No.2198 of 2025

1. Sunil Kumar Bafna
S/o Late Rikhab Chand Bafna
Old No.48, New No.89/1, Harrington Road
Chetpet, Chennai – 600 0030
2. Lalith Kumar Bafna
S/o Late Rikhab Chand Bafna
Old No.48, New No.89/1, Harrington Road
Chetpet, Chennai – 600 0030
3. Anil Bafna
S/o Late Rikhab Chand Bafna
Old No.48, New No.89/1, Harrington Road
Chetpet, Chennai – 600 0030
4. Pradeep Kumar Bafna
S/o Late Rikhab Chand Bafna
Old No.48, New No.89/1, Harrington Road
Chetpet, Chennai – 600 0030

...Petitioners / Applicants

Versus

1. Indian Overseas Bank
Rep. by its Chief Manager
Asset Recovery Management Branch
Central Office, Annex Building
3rd Floor, 763, Anna Salai
Chennai – 600 002
2. The Authorised Officer
Indian Overseas Bank
Asset Recovery Management Branch
Central Office, Annex Building
3rd Floor, 763, Anna Salai
Chennai – 600 002

...Respondents / Respondents

ORDER

1. This Interlocutory Application is filed by the applicant praying to condone the delay of 705 days in filing the instant SA filed challenging the action of respondent bank pursuant to the order of the Ld. Chief Metropolitan Magistrate, Egmore, Chennai in CrI. M.P. No.4478 of 2023 dated 06.12.2023.
2. The SA is not numbered by the Registry for the reason that the same is filed beyond the period of limitation.

Case of the Petitioners / Applicants

3. In the above SA it has been specifically stated that the impugned sale as per the auction sale notice dated 23.09.2025 was allegedly conducted on 13.10.2025 and the sale deed was executed in favour of one Mr. Balamurugan and sale was confirmed on 22.10.2025 and the same was communicated to the applicants only on 08.11.2025. The SA was originally filed on 20.12.2025. Therefore, the SA has been filed within the period of limitation from the date of receipt of said communication.
4. In the SA it is averred that once the secured assets has been allegedly sold by the respondent bank and issued sale certificate, they lose their character as secured creditor and therefore the respondent bank are no more a secured creditors and hence they are not entitled to pursue the

order passed under Section 14 of the SARFAESI Act by the Ld. CMM, Egmore. Therefore, from the same it is clear the cause of action for filing the SA for the relief of forbearing the respondent bank from implementing the order passed by Ld. CMM, Egmore in CrI. M.P. No.4478 of 2023 dated 06.12.2023 arises only after the alleged sale and consequent issuance of sale certificate. Therefore, there arose no delay in filing the SA before this Tribunal.

5. However, the office of this Tribunal raised an objection stating that the order of Ld. CMM, Egmore was passed on 6.12.2023 and therefore challenging the same, there is a delay in filing the SA and hence without any petition for condonation of delay the SA cannot be numbered. The matter was placed before this Tribunal for maintainability. It was elaborately argued that the cause of action for filing the present SA arose only on 8.11.2025 when the communication for sale of property and issuance of sale certificate was duly served and therefore there is no necessity for filing any condone delay petition. However, this Tribunal passed an order rejecting the plea of the applicant and dismissed the same.
6. Though the petitioners are of the view that the SA has been filed within limitation, in order to avoid further delay in pursuing the legal remedy as per the order of this Tribunal, the present petition is filed praying to condone the delay of 705 days in filing the SA.

7. Apart from the above facts, it is stated that originally in September 2014 our account was declared as NPA and a notice dated 27.11.2014 was issued to the applicants. Even thereafter the applicants remitted a sum of Rs.30 crores during September 2014 to March 2015. Despite the same the respondent issued possession notice and the same was challenged before DRT-I Chennai in SA No.39/20116. This Tribunal passed an order on 30.09.2014 stating the NPA was bad, non-est and null and void and the possession notice was declared as invalid. Meanwhile, the company was driven to NCLT and the Hon'ble NCLT has appointed IRP and thereafter declared as Liquidation. Again the respondent issued possession notice in respect of the residential properties of the applicants and the same were challenged by filing SA No.35/2020, 36 of 2020 and 37 of 2020 before this Tribunal and the Tribunal passed conditional stay order and the conditions were complied with.
8. The petitioners were taking steps for settlement and ultimately the OTS was accorded on 21.6.2024 for Rs.11.52 crores and the upfront amount of Rs.1.17 crores has already been paid and for payment of balance amount one month time was been i.e., by 20.07.2024. The short time was extended and thereafter by letter dated 1.10.2024 the OTS was cancelled. The petitioners filed W.P. No.33510 of 2024 before the Hon'ble High Court of Madras to quash the unilateral cancellation of OTS and the said writ petition is still pending.

9. It is stated that from the above all along there was a challenge to NPA order, possession notice and pending OTS and the petitioners focused on settlement of the dues to the respondent and thereafter writ petition was filed and therefore the petitioners never felt of challenging the order passed under Section 14 of the Act by the Ld. CMM. Therefore the delay. Moreover, the respondent bank also did not take steps to execute the order dated 6.12.2023 obtained under Section 14 of the SARFAESI Act. Therefore, in all there is a delay of 705 days in filing the SA.
10. The delay is neither willful nor wanton but for the reasons that the Tribunal has not accepted our plea that the cause of action arose only on 08.11.2025 when the applicant came to know about the issuance of sale certificate and registration of the same before the SRO. Therefore, in the interest of justice, this Tribunal may accept out grounds for delay and condone the delay in filing the SA.
11. No prejudice will be caused to respondents as the challenge of the order of the Ld. CMM is only on the ground that the respondent bank is no more a secured creditor and therefore they cannot pursue the order passed under Section 14 of the SARFAESI Act. On the other hand, the petitioners will be put to serious loss and hardship if the delay is not condoned. The balance of convenience is also in favour of the applicants.

Point for consideration

12. **Whether the instant application filed for condonation of delay of 705 days delay in filing the above SA is liable to be allowed?**

Answer to the Point for consideration

13. Section 17(1) of the SARFAESI Act, which reads as under, prescribes the period of limitation as 45 days for the purposes of challenging the measures initiated under the Act.

“17. (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, to the Debts Recovery Tribunal having jurisdiction in the matter **within forty-five days from the date on which such measure had been taken:**

[Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.]”

14. Section 17(1) of the SARFAESI Act prescribes the period of limitation as 45 days from the date of measure. Therefore, the applicant ought to have filed the SA within 45 days from the date of the Sale Notice dated 29.10.2020. However, the same has been filed on 10.01.2025 with a delay of 1485 days.
15. In so far as the prayer to condone the delay in filing the SA is concerned, it would be pertinent to refer to the decision of the Hon'ble Apex Court. in “***Bank of Baroda and another Vs. Parasadilal***

Tursiram Sheetgrah Pvt. Ltd (AIR 2022 SC 3803)”, wherein the Hon’ble Supreme Court in para 12 had held as follows:-

12. “ *the reason for providing a time limit of 45 days for filing an application under section 17 can easily be inferred from the purpose and object of the enactment. In Transcore v.Union of India and Another (2008(1) SCC 125) this court held that the SARFAESI Act is enacted for quick enforcement of the security. It is unfortunate that proceedings where a property that has been brought to sale had third party rights created under the provisions of the act, have remained inconclusive even after a decade.*”

16. Moreover, it is no more res-integra that the proceedings under Section 17 of the SARFAESI Act is an original proceeding and necessary amendment in this regard had been brought out in the statute wherein the word ‘appeal’ had been substituted with ‘application’ in terms with the decision of the Hon’ble Supreme court in Transcore’s Case reported in (2008) 1 SCC 125 holding that mentioning the Section 17 proceedings as appeal is a misnomer. Be that there is no provision for condoning the delay in original jurisdiction”.
17. Moreover, in so far as the applicability of the provisions of the Limitation Act, 1963 is concerned, reliance can be placed upon the judgment of the Division Bench of the Hon’ble Calcutta High Court in “***Akshat Commercial Private Limited & Others v. Kaplana Chakraborty & Others (AIR 2010 CALCUTTA 138)***”, wherein the Hon’ble High Court after a detailed analysis has held that since the proceedings under Section 17(1) of the SARFAESI Act are original in nature like a suit,

Section 5 of the Limitation Act does not apply to such proceedings and therefore, DRT does not have jurisdiction to condone the delay by allowing the application filed under Section 5 of the Limitation Act. It is to be noted that though Special Leave Petitions (Civil) No.17529-31/2010 were filed against the said judgment and leave was granted by the Hon'ble Supreme Court, however, in view of the settlement between the parties, the said appeals were disposed of by the Hon'ble Supreme Court vide order dated 15.12.2021.

18. Similarly, the Division Bench of the Hon'ble High Court of Madras in ***“Velar Engineering Works Private Limited v. The Authorised Officer / Chief Manager, Indian Bank, Kanchipuram and Others – CRP(NPD) Nos. 3785-3787/2012 in W.P. No. 31251/2018”*** has held that Section 5 of the Limitation Act has no application in the original proceedings like a suit before the DRT and therefore, the DRT has no jurisdiction to condone the delay in filing an SA by invoking Section 5 of the Limitation Act. Further, the appeal against the said order filed before the Hon'ble Supreme Court in SLP (Civil) Diary No.7023 of 2020 also was dismissed by the Hon'ble Supreme Court by its order dated 9.7.2020.
19. Further, in the recent ruling of the Hon'ble Apex Court in the case of ***“The Property Company (P) Ltd., Vs. Rohinten Daddy Mazda reported in 2026 LiveLaw (SC) 19***, it has been held that the Tribunals have no power to condone the delay.

20. Even on merits, the applicants seek condonation of delay of 705 days in filing the present Securitisation Application challenging the order passed by the learned Chief Metropolitan Magistrate, Egmore, Chennai in Crl.M.P. No.4478 of 2023 dated 06.12.2023 under Section 14 of the SARFAESI Act. The principal contention of the applicants is that there is, in fact, no delay in filing the S.A., since the cause of action arose only on 08.11.2025 when the communication regarding confirmation of sale and issuance of sale certificate was received by them. It is stated that the present application has been filed only pursuant to the objection raised by the Registry and the order of this Tribunal directing the applicants to file an application for condonation of delay.
21. The said contention cannot be accepted. Admittedly, the order sought to be challenged in the proposed S.A. is the order passed by the learned Chief Metropolitan Magistrate under Section 14 of the SARFAESI Act on 06.12.2023. The limitation for challenging any measure taken under the SARFAESI Act commences from the date on which the cause of action relating to such measure arises. The applicants were admittedly aware of the SARFAESI proceedings and have been actively litigating before various forums with regard to the subject loan account and secured assets.
22. The grounds now sought to be urged against the Section 14 order are not grounds arising out of any subsequent event which prevented the applicants from approaching this Tribunal within the prescribed period.

The alleged auction sale conducted on 13.10.2025 and issuance of sale certificate on 22.10.2025 may constitute subsequent developments. However, those events do not furnish any satisfactory explanation for the failure of the applicants to challenge the Section 14 order for nearly two years from the date of its passing.

23. The applicants themselves have stated that they were pursuing settlement negotiations with the respondent Bank, obtained an OTS proposal, and thereafter challenged the cancellation of the OTS before the Hon'ble High Court. Mere pendency of settlement discussions, OTS negotiations, or proceedings before other forums cannot constitute sufficient cause for not pursuing the statutory remedy within the period prescribed by law. A litigant who consciously chooses one course of action cannot subsequently seek condonation of an inordinate delay on that ground alone.
24. The explanation offered by the applicants that they "never felt the necessity" of challenging the order under Section 14 because they were concentrating on settlement cannot be regarded as a sufficient cause within the meaning of law. The reasons assigned disclose a deliberate choice on the part of the applicants and not any circumstance beyond their control preventing them from approaching this Tribunal in time.

25. It is well settled that though a liberal approach may be adopted while considering applications for condonation of delay, the applicant must nevertheless establish bona fide and sufficient cause covering the entire period of delay. In the present case, no satisfactory explanation has been furnished for the enormous delay of 705 days. The averments made in the affidavit do not explain day-to-day delay nor do they disclose any unavoidable circumstance preventing the applicants from filing the S.A. within the prescribed period. This Tribunal is therefore of the considered view that the applicants have failed to make out any sufficient cause warranting exercise of discretion in their favour. The delay is substantial and remains unexplained.
17. In view of the law laid down by the Hon'ble Supreme Court and the Hon'ble High Courts referred to above, and upon consideration of the reasons assigned for the delay, this Tribunal is of the considered view that there is no enabling provision under the SARFAESI Act empowering this Tribunal to condone the delay in filing an application under Section 17 of the Act. Even otherwise, on merits, the applicants have failed to establish any sufficient and bona fide cause for the inordinate delay. Accordingly, the applicants are not entitled to the relief of condonation of delay.

18. For the aforesaid reasons, the following:

ORDER

IA No.533 of 2026 stands dismissed. Consequently, the unregistered SA with SA Dy No.2198 of 2025 stands dismissed. All pending IAs stands closed. A copy of this order be communicated to the parties concerned.

**Sd/-
(SHARANG DHAR UPADHYAY)
PRESIDING OFFICER
DRT-II CHENNAI**

(Dictated to PS, who typed in the system directly, corrected, signed and pronounced by me in Open Court, on this 23rd day of June, 2026)