

IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 02nd day of July, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

SARFAESI APPLICATION No. 346 of 2026

K.Kesavan,
S/o.Late Kaliyamurthy Pillai,
2/80 East Street, Vadugakudi,
Kodavasal Taluk,
Thiruvavarur District 609 501.

...Applicant

-Vs-

1. The Authorized Officer,
Indian Overseas Bank Manavalanallur Branch
No 3/38/B, Main Road, Eravancherry
Manavalanallur, Nagapattinam - 609501

2. Mrs.S.Subhashini,
Wife of K.Kamalakaran,
No.35, John Selvaraj Nagar,
Kumbakonam,Thanjavur District - 612001

...Respondents

Counsels on record / appeared:

Counsel for Applicant : M/s. A. Sam Arul Prasath

Counsel for respondent : M/s. V. Rajeswari

ORDER ON SA 346/2026

1. The present Securitization Application [SA] is filed on 27.01.2026 under sub section [1] of S.17 of the Securitization And Reconstruction of Financial Asset and Enforcement of Security Interest Act,2002 (for short the 'Act') challenging the action and the measure taken by the secured creditor under the Security Interest Enforcement Rules, 2002 [for short the Rules].

2. The applicant has prayed to set aside the Sale held on 07.02.2025 and consequently the Sale Certificate dated 28.02.2025 executed by the 1st respondent in favour of the 2nd respondent under the Sale Notice dated 20.01.2025 and the outstanding amount due as per Sale Notice is Rs.24,33,495.43/-

3. The applicant has challenged the Sale Certificated dated 28.02.2025 pursuant to the sale notice dated 20.01.2025, has filed SA on 27.01.2026 which is not within the period of 45 days as required U/s.17(1) of SARFAESI Act. In the Limitation column the applicant submits that the impugned Sale dated 07.02.2025 pursuant to the Sale certificate dated 28.02.2025 executed by the 1st respondent in favour of the 2nd respondent under the sale notice dated 20.01.2025.

4. It is contended that the applicant came to know about the sale certificate only on 03.01.2026 when the advocate commissioner visited the premises informing about the Sec.14 order dated 12.11.2025 passed by Hon'ble CJM in Cr.M.P.No.615 of 2025. Hence, the applicant prays that the present SA is filed within the limitation from the date of knowledge of the sale dated 07.02.2025.

5. Though the Registry of the Tribunal after scrutiny of the case papers raised an objection that there is delay in filing SA and the same is barred by limitation, original sale notice not produced and applicant has raised multi prayers in the SA. Though Registry raised objections on delay, there

is no petition filed to condone the delay. In fact as per Registry objection there is delay of 354 days in challenging the sale.

6. It is seen that the sufficient time was granted by the registry either file the delay petition to condone the delay. In spite of sufficient opportunity applicant has not filed the delay application. However, the matter was put before the bench to hear the maintainability.

7. The respondent bank has filed the detailed counter to the maintainability issue as raised by the registry contending that the SA is filed on 27.01.2026 seeking to set aside the sale held on 07.02.2025 pursuant to sale notice dated 20.01.2025 and sale certificated issued to the 2nd respondent on 28.02.2025. It is the specific case of the respondent that the SA is hopelessly barred by the limitation and same is filed with a delay of more than 300 days from the date of sale on 07.02.2025.

8. Further contention of the applicant that he came to know about the sale notice dated 20.01.2025 only on 03.01.2026 in an utter lie. As the sale notice issued by the bank to the borrower were duly served and one sent to the applicant returned with endorsement "unclaimed" returned to sender.

9. Further, the borrower is none other than the niece of the applicant and the co-borrower being his uncle and applicant's wife Mrs. Nirmala, resides in the address furnished by the applicant to the bank and the applicant had preferred an appeal before the Hon'ble DRAT, Chennai in AIR 693 of 2026, against the interim orders of this Hon'ble Tribunal passed in

SA.No.61.2026 has described himself as represented by his wife and power agent Mrs. Nirmala.

10. Thus he himself has for all purposes recognized his wife as power agent and despite knowledge by his wife at the time of affixture of sale notice and other earlier notices (demand notice and possession notice) on the outer wall of the property where she resides, the applicant can no way claim innocence of the steps taken by the bank.

11. Despite having knowledge about the sale notice, the applicant remaining silent and now almost one year after the sale process was complete, the applicant has filed the present SA with false and frivolous allegations.

12. The respondent bank has riled on the judgment of the Hon'ble Supreme Court in "The Property Company Private Limited vs. Rohintan Daddy Maza" B – Civil Appeal No.92 of 2026, where it is held, Tribunal are not courts and therefore they cannot condone the delay beyond the period prescribed in the Special Act. Hence, the respondent bank prays for dismissal of the SA.

Heard both sides of the Counsels and perused the records of the case

13. The applicant is the guarantor and mortgaged the property as collateral security towards the credit facilities availed by the borrower. The applicant has challenged the Sale Certificate dated 28.02.2025 beyond a period of 45 days as required under S.17 of the Act. The specific contention

of the applicant that he came to know about the sale certificate only when the Advocate Commissioner visited the property on 03.01.2026, hence the present SA challenging the Sale certificate dated 28.02.2025 is filed within the period of 45 days from 03.01.2026 cannot sustain.

14. The respondent bank has produce the sale notice dated 20.01.2025, which was sent to the applicant by RPAD. Admittedly the sale notice sent to applicant has returned with the postal endorsement as "unclaimed" as per the RPAD covers produced by the bank at pg.5 of the counter.

15. It is seen from the endorsement of the postal authorities that the authorities had intimated about the notices on 24.01.2025, 25.01.2025 27.01.2025, 28.01.2025 and again on 29.01.2025. Thus it is clear that the notice sent by RPAD to the address which was available from the respondent bank was not received by the applicant for the reasons best known to in spite of an intimation given by the postal authorizes about the RPAD Post. Hence the service of sale notice dated 20.01.2025 is deemed service as per General clause Act.

16. Further, a copy of the photographs evidencing the affixture of the sale notice is produced at pg.7 and 8 of the counter which clearly reflects that the affixture of the sale notice is affected on 20.01.2025 on the premises of the applicant. Hence, the applicant had knowledge of the sale notice which was affixed on the secured asset, and the photographs clearly reflects that the occupants of the property were aware of the affixture of

the sale notice. Further, the sale notice is published in the two newspapers one in English and another one in Tamil both dated 22.01.2025.

17. Hence, the contention that the issuance of the sale notice dated 20.01.2025 was not within the knowledge of the applicant fails and further contention that it came to knowledge of the sale notice only when the Advocate Commissioner visited the property on 03.01.2026 is a baseless and unsustainable and the same is against the document produced by the respondent. Further, the sale certificate is issued which is also registered in the office of the Sub Registrar, Peralam favoring the 2nd respondent herein. Hence present SA filed is hopelessly barred by limitation.

18. *Now, considering the delay application, the Tribunal is posed with the question whether the Tribunal can condone the delay under S.17 of the SARFAESI Act?*

For appreciation of the facts S.17(1) is extracted as under: -

S.17(1):

Application against measures to recover secured debts (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 authorized 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 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.]

[Explanation.- For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under this sub-section(1) of section.17.]

19. A reading of the above provision it is palpable that there is no provision made by the Parliament for condonation of delay in approaching the DRT against the measures, no matter whatever be the cause and howsoever justifiable it may sound. Unless power to condone delay is legislatively granted expressly or by inference, the Tribunal cannot condone delay. It is the indication of Parliament that one who wants to have redressal must knock the doors of DRT within 45 days and subsequently those doors should permanently stand closed. In other words, law does not come to the aid of those who are sleepy & late.

20. Thus, it is clear that any person aggrieved by any measures under Section 13[4] is required to approach the Tribunal under S.17 within 45 days from the date of the measure. Evidently, the present SA challenging the sale held on 07.02.2025, consequently issued the Sale Certificate dated 28.02.2025 and the challenge to sale notice dated 20.01.2025, is not within the period of 45 days and the same is filed with a delay of 354 days.

21. This view of the Tribunal is confirmed by the judgement of the Hon'ble Supreme Court in the case titled ***Bank of Baroda – Vs.- Parasaadilal Tursiram Sheetgrah Pvt. Ltd, reported in 2022 Livelaw (SC) 671***, at para 12, observed that a time limit of 45 days for filing an application under

Section 17 of SARFAESI Act is provided for quick enforcement of the security is as under:

“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 Anr. 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 and third-party rights created under the provisions of the Act, have remained inconclusive even after a decade.”

22. Further the Hon’ble Calcutta High Court in ***Akshat Commercial Pvt Ltd. Vs. Kalpana Chakroborty*** has taken view that S.17 is mandatory and therefore the question of condoning the delay does not arise. If the Parliament intended that DRT should have power to condone delay, it would have enacted a provision like S.5 of Limitation Act to SARFAESI Act. As it consciously chosen not to do it clearly emphasis the purpose of the SARFAESI Act.

23. The Tribunal is of the view that DRT has no power to condone delay in an application under S.17 of the Act, as it is a special law for speedy recovery of money due to bank in enforcing the security available to them is reinforced at para 65 of the judgement of the Hon’ble Supreme Court in ***Celir LLP Vs. Bafna Motors [Mumbai][P] Ltd.***, reported in [2024] 2 SCC 1 at para 65 which is reproduced here under:

"The SARFAESI Act is a special law containing an overriding clause in comparison to any other law in force. The SARFAESI Act is a special law of recovery with a paradigm shift that permits expeditions recovery for the banks and the financial institutions without intervention of Courts. If the general law is allowed to govern in the manner as sought to be argued by the borrowers, it will defeat the very object and purpose...."

24. Therefore, it is obvious that when a special legislation grants a right of action it is subject to certain conditions and create a forum for its implementation, that right becomes exercisable on satisfying such conditions and not otherwise and Limitation period is one such condition. Further the respondent reliance on the Hon'ble Supreme Court in "The Property Company Private Limited vs. Rohintan Daddy Maza" B – Civil Appeal No.92 of 2026, where it is held, Tribunal are not courts and therefore they cannot condone the delay beyond the period prescribed in the Special Act.

25. It is a settled legal proposition that law of limitation may harshly affect a particular party, but it must be applied with all its rigour when the statute so prescribes. The Tribunal has no power to extend the period of limitation on equitable grounds and has no power to ignore that provision to relieve what it considers a distress resulting from its operation as per the Judgement of Hon'ble Supreme Court in the matter of **P.K. Ramachandran vs. State of Kerala**, reported in (1997) 7 SCC 556, the Hon'ble Supreme Court has held thus:-

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds".

Hence, the legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation.

26. The question whether the Debt Recovery Tribunal can entertain an application under S.17 of the Act after 45 days of measure referred to in sub section [4] of S.13 is no more res integra.

27. The Hon'ble Division Bench of High Court of Kerala in Writ Appeal No.1797 of 2009 in W.P.(C) No.22192 of 2007 in the case titled **K.PJayan vs. Hong Kong & Shanghai Banking Corporation Ltd and others** decided on 31.08.2015 had categorically held that the power to condone delay in entertaining an application under Section 17 of the SARFAESI Act is not conferred on the Debts Recovery Tribunal. It further held that the Debts Recovery Tribunal cannot consider an application for condonation of delay under Section 5 of the Limitation Act in an application under Section 17 of the SARFAESI Act. The relevant paras is extracted as under:

"7. Referring to these provisions the contention urged before us is that since section 24 of the RDB Act makes Limitation Act applicable and as the DRT constituted under the RDB Act is conferred with jurisdiction under section 17, Limitation Act governs applications made in a proceedings under section 17 also. We are unable to accept this contention. Both the RDB Act and the SARFAESI Act are independent enactments, although certain provisions of the RDB Act are made applicable in respect of the proceedings under the SARFAESI Act also. However, that does not mean that every provision of the RDB Act would apply to every proceedings initiated

under the SARFAESI Act. In so far as this case is concerned, proceedings were initiated under SARFAESI Act and in view of the provisions contained in section 17 conferring jurisdiction on the DRT constituted under RDB Act application is made by the appellant before the DRT. That does not mean that provisions of section 24 of the RDB Act governing the proceedings taken thereunder would get automatically attracted to such proceedings before the DRT. Therefore, the contention raised relying on section 24 in so far as this case is concerned is only to be rejected and we do so. This is further clear from section 36 of the SARFAESI Act, which confines the applicability of the Limitation Act to measures under section 13(4) of the said Act."

28. Further, the Hon'ble High Court of Kerala has also considered the issue in the case titled **The Authorised Officer, Indian Bank Vs. K.J. George**, order dated 02.11.2020 has placed reliance on **K.P. Jayan V. Hong Kong & Shanghai Banking Corporation** and has held that DRT has no power to condone the delay u/s.17 of the Act.

29. As per Section 17 of the SARFAESI Act, an application against measures to recover secured debts, must be filed before the Debts Recovery Tribunal within forty-five days from the date on which such measure had been taken. It further observed that *"The reason for providing a time limit of 45 days for filing an application under Section held that the SARFAESI Act is enacted for quick enforcement of the security, which can easily be inferred from the purpose and object of the enactment.* In *Transcore v. Union of India and Anr*, this Court held that the SARFAESI Act is enacted for quick enforcement of the security.

30. Additionally in the instant matter the applicant has not filed any Application to condone the delay nor has justified each days delay in preferring the present SA. Even otherwise the delay cannot be condoned

on equitable grounds and in support of its view, the reliance is placed on the Judgement of Hon'ble Supreme Court in the case titled **Lingeswaran Vs. Thirunagalingam** where it is observed that an application for condonation of delay has to be dismissed, if it is found that the delay is not properly explained and that the period of limitation cannot be extended on equitable ground. Otherwise, it would be giving a premium to a person who fails to explain the delay and who is guilty of delay and laches. The court also observed *"The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same.*

31. The Hon'ble Apex Court also noted the following observations made in **Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai**, (2012) 5 SCC 157, while dismissing the SLP:

"The law of limitation is founded on public policy. The limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the court for vindication of their rights without unreasonable delay. The idea underlying the concept of limitation is that every remedy should remain alive only till the expiry of the period fixed by the legislature. At the same time, the courts are empowered to condone the delay provided that sufficient cause is shown by the applicant for not availing the remedy within the prescribed period of limitation."

32. The Tribunal also places reliance on the judgement of the ***Hon'ble High Court of Karnataka at Bengaluru*** in the case of ***Kailasam P – Vs.-***

The Karnataka Bank Limited, Rep. by its Authorised Officer in Writ Petition No.11273 of 2024 (GM-DRT) has held that:

"law of Limitation fixes upon a particular period within which a party is entitled to institute legal proceedings and if he fails to do so, ordinarily the cause of action dies subject to just all exceptions. Law of Limitation is statute of repose. True it is that any welfare State like ours is bound in good faith to furnish its citizens all needful legal remedy however it is not bound to keep its Courts and Tribunals open ad infinitum. If an aggrieved person neglects or refuses to apply for redress within the prescribed period of limitation, his claim is lost in the lapse of time."

33. In other words, the statutory time of 45 days provided under Section 17(1) of the SARFEASI Act is mandatory and no discretion has been conferred upon the DRT to extend such period. It is pertinent to note that the Securitization Act is for quick enforcement of the security interest created favouring the respondent bank for the recovery of the amount due.

34. In fact the provisions of the Act and Rules framed thereunder cast an obligation upon the secured creditor for strict compliance of the SARFAESI Act and the Rules made thereunder. Each measure is to be followed meticulously giving a time frame to proceed further. Firstly, the measures can be initiated after the account is classified as NPA, then issuance of statutory notice ie., demand notice demanding outstanding due to be repaid within 60 days.

35. The secured creditor must wait for completion of 60 days and then proceeds further under S.13[4] possession notice which is challengeable within a period of 45 days. Similarly, the Order of CJM or DM is also to be

challenged within 45 days. In other words, ample opportunity is granted by the Act for an aggrieved person to invoke his right of appeal under S.17 of the Act within a period of 45 days from the date of measure. The provisions of the Act and the Rules made thereunder puts the borrower/guarantor/mortgagor notices in advance before taking measures under Section 13(4) of the Act read with Rule 8 and 9, giving the aggrieved person ample of time and opportunities to assail measure within a period of 45 days.

36. Thus, the provisions of the Act and Rules ensures that the borrowers have advance notice of the proposed measure to be taken by the secured creditor. The judgement of the Hon'ble Supreme Court in **Bank of Baroda – Vs.- Parasaadilal Tursiram Sheetgrah Pvt. Ltd** has given a quietus to the conundrum which existed until that time on the power of the DRT to condone the delay in filing an SA after the statutory period of 45 days provided under Section 17(1) of the SARFEASI Act.

37. The Tribunal also places reliance on Order dated 27.06.2023 passed in **MA [SA]32/2021 by the Hon'ble DRAT Chennai** has held that the statutory period of 45 days in challenging the measures cannot be condoned. The further reliance of the judgment dated 13.06.2025 passed by **Hon'ble DRAT Chennai in MA.[SA] 31/2022**, wherein it is held that if an application under S.5 of Limitation Act is entertained in an application filed under S17 of SARFAESI Act,2002, it would derail the very purpose of the SAFAESI Act.

38. Though the applicant has not filed an application to condone the delay, the Tribunal first has to adjudicate on the maintainability of the SA on limitation before proceeding further, hence the maintainability/delay issue was considered. For the foregoing reasons, the applicant has failed to challenge the sale notice dated 20.01.2025 within the period of 45 days as required under S.17 of the Act in spite of knowledge of the issuance of sale notice. Accordingly, the SA stands dismissed as barred by limitation.

39. For the foregoing reasons, the present SA fails and accordingly SA stands dismissed. Interim Order granted, if any stands vacated, pending IAs are disposed of in terms of this final order. No order as to cost.

Sd/-
(S.V. GOWRAMMA)
PRESIDING OFFICER,
DRT-III, CHENNAI

(Dictated to Steno (Suriya), transcribed by him, corrected, signed and pronounced by me on this the 02nd day of July, 2026)

ANNEXURES

LIST OF DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Documents No.
1.	Copy of Passport of the applicant.	A-1
2.	Copy order by Hon'ble CJM, Tiruvarur in Cr.M.P.No.615 of 2025 dated 12.11.2025.	A-2
3.	Copy of Sale Notice dated 20.01.2025.	A-3
4.	Certified copy of Sale Certificate dated 28.02.2025.	A-4

LIST OF DOCUMENTS PRODUCED BY THE RESPONDNET

Sl. No.	Description of Documents	Documents No.
1.	Sale Notice issued by the respondent bank along with the postal returned covers dated 20.01.2025.	R-1
2.	Photo showing affixture of the Sale Notice.	R-2
3.	Paper Publication of Sale Notice in English and Tamil dated 22.01.2025.	R-3
4.	Sale Certificate issued to the 2 nd respondent dated 28.02.2025.	R-4

SCHEDULE OF PROPERTY

All that part parcel of residential RCC building Number D.No.2/80 in a land measuring 35 cent (15,246 Sq.ft) situated at New R.S.No.114/24 (old R.S.No.114/12) in Vadugakudi Village, Kodavasal Taluk, Thiruvarur District. Peralam Sub Registry, Thiruvarur Registration District.

Boundaries

North by: Street

South by: Pattu Achi Property

East by: Sadasivam's Property

West by: Sengagam Ammal Property

Sd/-
(S.V. GOWRAMMA)
PRESIDING OFFICER,
DRT-III, CHENNAI