Fair Order

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI

DATED THIS 02nd DAY OF JULY 2026

PRESENT: SEEMA SINHA
[PR. DISTRICT & SESSIONS JUDGE - Retd]
PRESIDING OFFICER

SA No.178/2023 &
Connected SA No.508/2023, 279/2024 & 778/2025

1. M/s. Shri Narayana Traders,
   Represented by its Partner
   Smt. Chitra,
   No. 261, Dharmapuram Street,
   Rajapalayam - 626 117.

2. Smt. K. Chitra,
   W/o. V.N. Kannan,
   No. 261, Dharmapuram Street,
   Rajapalayam – 626 117.

3. Mr. V.N. Kannan,
   S/o. V.S. Narayana Raja,
   No. 261, Dharmapuram Street,
   Rajapalayam – 626 117.

4. Mr. V.N. Vijayan,
   S/o. V.S. Narayana Raja,
   No. 261, Dharmapuram Street,
   Rajapalayam - 626 117. ---- Applicants

Vs

1. The Authorised Officer,
   State Bank of India,
   Stressed Assets Recovery Branch (SARB),
   Vinayaga Nagar Branch (Upstairs),
   No. 8, Dr. Ambedkar Road,
   Madurai - 625 020. ---- 1st Defendant Bank

2. Shri. Ramakrishnakumar,
   S/o. Ramasamy Raja,

F.No A4, Breeze Avenue, Mahalakshmi Nagar,
Varadharajapuram, Mudichur,
Tambaram -600 045,
Kancheepuram District. ---- 2nd Defendant/Auction purchaser

<u>Appearance of Advocates:</u>
M/s. Aiyar & Dolia ---- Counsel for the Applicants
Mr. P.Pethu Rajesh ---- Counsel for the 1st Defendant Bank
Mr.M.Murugan ---- Counsel for the 2nd Defendant/Auction Purchaser

These SAs were heard together in the presence of the Counsels for the Applicants, the 1st Defendant Bank, and the 2nd Defendant/Auction Purchaser. These SAs have been taken up together for passing the final order before me, as these cases arose out of the same cause of action. Upon hearing the arguments of the Counsels and having reserved the matters for consideration, this Tribunal delivers the following:

<u>O R D E R</u>

1. **a.** **SA No. 178/2023:** To set aside the entire SARFAESI proceedings initiated by the Defendant Bank ending up with the issuance of E-Auction Sale Notice dated 18.04.2023 fixing the date of sale on 19.05.2023, for the schedule mentioned properties and pass such other order or orders which this Hon'ble Tribunal may deem fit and proper and thus render justice.

Further in

b. **SA No. 508/2023:** To set aside the entire SARFAESI proceedings initiated by the Defendant Bank ending up with the issuance of the E-Auction Sale Notice dated 07.09.2023 fixing the date of sale on 29.09.2023, for the schedule mentioned properties and pass such other order or orders which this Hon'ble Tribunal may deem fit and proper and thus render justice.

c. **SA No.279/2024:** To set aside the entire SARFAESI proceedings initiated by the Defendant Bank ending up with the issuance of the E-Auction Sale Notice dated 26.03.2024 fixing the date of sale on 18.04.2024, for the schedule mentioned properties and pass such other order or orders which this Hon'ble Tribunal may deem fit and proper and thus render justice.

d. SA No. 778/2025: To set aside the entire SARFAESI proceedings initiated by the Defendant Bank ending up with the issuance of the Possession Notice dated 07.05.2022, for the schedule mentioned properties and pass such other order or orders which this Hon'ble Tribunal may deem fit and proper and thus render justice.

2. The brief averments of the Application filed by the Applicants are as follows:-

a) The Counsel for the Applicants submitted that, the Applicants availed credit facilities to the tune of Rs.1.50 crores towards cash credit from the Defendant Bank for the development of their business and also obtained a sum of Rs.45,00,000/- towards an Educational Loan in the name of Shri R. Viswath Narayanan from the Defendant Bank by extending the same security as a mortgage.

b) It is further submitted that, they were prompt in repayment initially till the intervention of the Covid-19 pandemic. However, due to the lockdown announced by the Government due to the Covid-19 pandemic, life came to a standstill for all in the country and the Applicants were not able to recover their receivables from their suppliers. In view of the same, there was a break in the chain and the Applicants' business came to a standstill and they were not able to adhere to the repayment schedule of the Defendant Bank, and hence, the loan account was classified as NPA on 31.03.2021 during the Covid-19 pandemic period when the RBI guidelines issued to restructure the MSME loans to the loan accounts which were standard as on 01.03.2020 and were in force. Hence, the classification of the loan account as NPA during the Covid-19 lockdown is against the RBI guidelines and the same is illegal;

Therefore, the Defendant Bank does not have any right or jurisdiction to proceed further under the SARFAESI Act, 2002.

c) It is further submitted that, the Defendant Bank initiated proceedings under the SARFAESI Act by issuing the Section 13(2) Demand Notice dated 21.04.2021 claiming a total sum of Rs.1,63,64,809.90 as on 31.03.2021. The Applicants, immediately on receipt of the Section 13(2) Demand Notice, approached the Defendant Bank and sought renewal/restructuring of the loan account. It is pertinent to point out here that due to Covid-19, the RBI had announced a restructure package to the MSME sector, which was not considered by the Defendant Bank.

d) It is further submitted that, in the meantime, the Defendant Bank took possession of the property by issuing the 1st Possession Notice dated 02.07.2021 under Section 13(4) of the SARFAESI Act, 2002. However, the Possession Notice was not affixed on the conspicuous part of the properties, nor was the same published in two leading newspapers as contemplated under the Act and Rules. It is pertinent to point out here that the Defendant Bank, on its own, without any basis, in order to fill up the lacuna in the Notice dated 02.07.2021, had withdrawn the said notice with liberty to issue a fresh notice and sent a letter to that effect to the Applicants on 05.08.2021. It is not out of place to mention here that if the Defendant wanted to withdraw the proceedings and proceed afresh, they should have withdrawn the Section 13(2) Demand Notice and proceeded afresh. They don't have any authority to withdraw the Section 13(4) Possession Notice alone; hence, the entire SARFAESI proceedings are bad in law.

e) It is further submitted that, even though the Applicants requested time to clear the overdues and regularize the loan account, the

Defendant Bank, unmindful of the same, once again took possession of the properties on 07.05.2022 by issuing the present Possession Notice. However, the said Possession Notice dated 07.05.2022 was not affixed on the conspicuous part of the properties, nor was the same published in two newspapers as contemplated under the Rules.

f) It is further submitted that, in the meantime, the Defendant Bank issued an Auction Sale Notice dated 05.08.2022 fixing the date of sale on 16.09.2022. Aggrieved over the same, the Applicants filed a Writ Petition in W.P.(MD) No.20200 of 2022 before the Hon'ble High Court, and the Hon'ble High Court, vide order dated 01.09.2022, was pleased to direct the Defendant Bank to defer the auction sale proceedings on condition that the Applicants should deposit a sum of Rs.50,00,000/- in the following manner:-

- ✓ Rs.10,00,000/- on or before 15.09.2022
- ✓ Rs.10,00,000/- on or before 15.10.2022
- ✓ Rs.10,00,000/- on or before 15.11.2022
- ✓ Rs.10,00,000/- on or before 15.12.2022
- ✓ Rs.10,00,000/- on or before 31.12.2022

Accordingly, the Applicants had paid the first two instalments of Rs.10,00,000/- each on time as ordered by the Hon'ble High Court, and the 3rd instalment was paid belatedly. So far, the Applicants had paid a sum of Rs.32.50 lakhs out of Rs.50,00,000/- ordered by the Hon'ble High Court. However, due to family circumstances and financial constraints, the Applicants were not able to pay the balance instalment amount as ordered by the Hon'ble High Court. In the meantime, the Applicants had settled the Educational Loan obtained in the name of Shri R. Viswath Narayanan from the Defendant Bank by extending the same security as mortgage, by paying a sum of Rs.53,37,534/-, and the account was closed on 11.07.2022.

g) It is further submitted that, taking advantage of the situation, the Defendant Bank had issued the present E-Auction Sale Notice dated 21.01.2023 fixing the date of sale on 03.03.2023. However, the said Auction Sale Notice was not affixed on the conspicuous part of the property, nor was the same properly published in two leading newspapers as contemplated under the Rules. Further, the Defendant Bank had undervalued the property and fixed the lowest upset price. Aggrieved over the same, the Applicants filed an Application in S.A. No.75 of 2023, and this Hon'ble Tribunal, vide order dated 22.02.2023, granted interim stay on condition that the Applicants should deposit a sum of Rs.35,00,000/- on or before 22.03.2023 towards the 1st instalment and a further sum of Rs.35,00,000/- on or before 19.04.2023 towards the 2nd instalment. However, the auction sale did not take place on 03.03.2023, and the Applicants were not able to comply with the conditional order passed by this Hon'ble Tribunal.

h) It is further submitted that, in the meantime, the Applicants, even though they are eligible for OTS under the NDND Scheme announced by the Defendant Bank in the year 2021, were not extended the same by the Defendant Bank for the reasons best known to them. It is further submitted that, in order to give a quietus to the issue, the Applicants submitted an OTS proposal to the Defendant Bank on 22.03.2023 offering to pay a sum of Rs.1,47,24,111/- towards full and final settlement. The Applicants had also enclosed a Demand Draft for a sum of Rs.15,00,000/- being the 10% upfront amount for considering the OTS. However, the same was rejected by the Defendant Bank vide their letter dated. Once again, the Applicants sent a detailed letter on 05.04.2023 explaining all the facts and requested for OTS. The same was also negatived by the Defendant Bank vide their letter dated 11.04.2023.

i) It is also submitted that, taking advantage of the situation, the Defendant Bank had issued the present E-Auction Sale Notice dated 18.04.2023 fixing the date of sale on 19.05.2023. However, the said Auction Sale Notice was not affixed on the conspicuous part of the property, nor was the same properly published in two leading newspapers as contemplated under the Rules. Further, the Defendant Bank had undervalued the property and fixed the lowest upset price. Aggrieved over the same, the Applicants filed an Application in S.A. No.178 of 2023 before this Hon'ble Tribunal, and this Hon'ble Tribunal, vide its order dated 19.05.2023, granted interim stay not to confirm the sale on condition that the Applicants should deposit a sum of Rs.35,00,000/- towards the 1st instalment on or before 16.06.2023 and a further sum of Rs.35,00,000/- on or before 14.07.2023 as the 2nd instalment.

j) It is further submitted that, they put in great efforts to mobilize funds and comply with the conditional order passed by this Hon'ble Tribunal. However, due to the delay in disposing of one of the non-mortgaged properties, being not able to recover the receivables in time, and due to family circumstances and financial constraints, despite the hectic efforts taken by the Applicants, they were not able to mobilize the funds in full within the time stipulated by this Hon'ble Tribunal. Hence, the Applicants were not able to comply with the conditional order passed by this Hon'ble Tribunal by paying the 1st instalment amount of Rs.35,00,000/-, and the Applicants had only paid a sum of Rs.15,00,000/- and filed a Petition for extension of time seeking a further 4 weeks' time to pay the balance 1st instalment amount of Rs.20,00,000/- along with the 2nd instalment amount. In the meantime, the Defendant Bank had conducted the auction sale, and the same was also confirmed in favour of the Auction Purchaser, and the Sale Certificate was also issued. In the meantime, the Applicants had taken a Demand Draft for a sum of

Rs.20,00,000/- on 04.07.2023 being the balance amount of the 1st instalment amount.

k) It is further submitted that, they filed a Writ Petition in W.P.(MD) No.16413 of 2023 before the Hon'ble Madurai Bench of the Madras High Court, and the Hon'ble High Court, vide order dated 06.07.2023, directed this Hon'ble Tribunal, Madurai, to decide the extension petition when it is taken up for hearing on 17.07.2023 and directed not to register the Sale Certificate till then.

l) It is further submitted that, when the above extension petition was taken up for hearing on 17.07.2023 before this Hon'ble Tribunal, the same was adjourned to 24.07.2023 for filing counter and only on 24.07.2023, the Defendant Bank filed their counter affidavit, and the matter was posted for enquiry in the said extension petition on 07.08.2023. In view of the above circumstances, the Applicants were not able to pay the 2nd instalment amount in time. However, the Applicants had taken a Demand Draft for a sum of Rs.35,00,000/- on 04.08.2023 and another Demand Draft for a sum of Rs.18,54,000/- being the entire sale consideration in favour of the Defendant Bank and filed a petition to condone the delay in complying with the 2nd instalment amount as per the order dated 19.05.2023, and the said Petition is pending before this Hon'ble Tribunal.

m) It is further submitted that, in the meantime, the Defendant Bank issued the present Auction Sale Notice dated 28.07.2023 for the remaining house property fixing the date of sale on 18.08.2023. However, the said Auction Sale Notice was not affixed on the conspicuous part of the property, nor was the same properly published in two leading newspapers as contemplated under the Rules. Further, the Defendant Bank had undervalued the property and fixed the lowest upset price. Aggrieved over the same, the Applicants filed an Application in S.A. No.345 of 2023 before this Hon'ble Tribunal.

n) It is further submitted that, this Hon'ble Tribunal, vide its order dated 08.08.2023, granted the following interim order:

"...Ad interim stay is granted not to confirm the sale till 07.11.2023, with respect to the petition schedule mentioned property, against the Respondents, if the sale is so held, subject to payment of 40% of the suit amount i.e. (Rs.92,38,124/-) in 3 equal instalments, i.e. a sum of Rs.12,32,000/- directly to the Respondent Bank on or before 07.09.2023 as the 1st instalment and another sum of Rs.12,32,000/- directly to the Respondent Bank on or before 07.10.2023 as the 2nd instalment and a further sum of Rs.12,32,000/- directly to the Respondent Bank on or before 06.11.2023 as the 3rd instalment."

o) It is further submitted that, the Applicants put in great efforts to mobilize funds and comply with the conditional order passed by this Hon'ble Tribunal. However, due to the delay in disposing of one of the non-mortgaged properties, being not able to recover the receivables in time, and due to family circumstances and financial constraints, despite the hectic efforts taken by the Applicants, they were not able to mobilize the funds in full within the time stipulated by this Hon'ble Tribunal. Hence, the Applicants were not able to comply with the conditional order passed by this Hon'ble Tribunal by paying the 1st instalment amount of Rs.12,32,000/-, and the Applicants had only paid a sum of Rs.2,32,000/- and filed a Petition for extension of time seeking a further 2 weeks' time to pay the balance amount of 1st instalment of Rs.10,00,000/- as ordered by this Hon'ble Tribunal. It is further submitted that altogether the Applicants had paid a total sum of Rs.1,26,36,000/- after the issuance of the Demand Notice by the Defendant Bank.

p) It is further submitted that, in the meantime, even before the expiry of the time limit granted by this Hon'ble Tribunal for payment of the 1st instalment amount, i.e. on 07.09.2023 itself, the Defendant Bank had issued the present Auction Sale Notice dated 07.09.2023 fixing the date of sale on 29.09.2023 from 11.00 AM to 1.00 PM. However, the said Auction Sale Notice was not affixed on the conspicuous part of the property, nor was the same properly published in two leading newspapers as contemplated under the Rules. Further, the Defendant Bank had undervalued the property and fixed the lowest upset price. Further, in the Auction Sale Notice, the date and time for payment of the EMD were mentioned as till the closure of the E-Auction. The same is illegal, and the Defendant Bank cannot accept the EMD by 1.00 PM for the E-Auction which commences at 11.00 AM on 29.09.2023. Hence, the Auction Sale Notice is illegal and liable to be set aside on this sole ground alone. Aggrieved over the same, the Applicants filed an Application in S.A. No.508 of 2023, and this Hon'ble Tribunal, vide order dated 27.09.2023, passed the following order:

"...Hence, ad interim stay is granted not to confirm the sale till 12.01.2024, with respect to the petition schedule mentioned property, against the Respondent, if the sale is so held, subject to payment of Rs.5 lakhs to be paid on or before 09.10.2023, subject to the payment of 50% of the balance amount (Rs.87,38,124/-) in three equal instalments directly to the Respondent Bank as under:

1st instalment – On or before 09.11.2023 – Rs.14,57,000/-
2nd instalment – On or before 11.12.2023 – Rs.14,57,000/-
3rd instalment – On or before 11.01.2024 – Rs.14,57,000/-."

q) It is further submitted that, in compliance with the order passed by this Hon'ble Tribunal, the Applicants had paid the 1st and 2nd instalment amounts in time. However, due to the festival holidays, the Applicants were not able to recover the receivables in time and, due to family circumstances and financial constraints, despite the hectic efforts taken by the Applicants, they were not able to mobilize the funds within the time stipulated by this Hon'ble Tribunal for payment of the 3rd instalment amount of Rs.14,57,000/- despite the grant of an extension of time till 31.01.2024 and were not able to comply with the conditional order passed by this Hon'ble Tribunal by paying the 3rd instalment amount of Rs.14,57,000/- and Hence, filed a petition for extension of time. It is submitted that altogether the Applicants had paid a total sum of Rs.1,57,50,000/- after the issuance of the Demand Notice by the Defendant Bank apart from settling the Educational Loan to the tune of Rs.53,37,000/-. In the meantime, the Defendant Bank obtained an order under Section 14 from the Learned Chief Judicial Magistrate, Virudhunagar District. Aggrieved over the same, the Applicants filed S.A. No.704 of 2023, and this Hon'ble Tribunal was pleased to grant interim stay.

r) It is further submitted that, taking advantage of the vulnerable situation of the Applicants, the Defendant Bank, without granting breathing time, once again issued an Auction Sale Notice dated 01.02.2024 fixing the date of auction sale on 22.02.2024. Aggrieved over the above action of the Defendant, the Applicants filed an Application in S.A. No.119 of 2024, and this Hon'ble Tribunal passed a conditional order on 21.02.2024 directing the Applicants to pay a sum of Rs.2,00,000/- on or before 22.02.2024 as the 1st instalment and Rs.3,00,000/- on or before 26.02.2024 as the 2nd instalment and a further sum of Rs.14,64,000/- on or before 21.03.2024 as the 3rd instalment and a further sum of Rs.14,64,000/- on or before 22.04.2024 as the 4th instalment. The Applicants had complied with the 1st and 2nd instalment payments in time; however, due to financial constraints that arose due to the election notification, the Applicants were not able to mobilize the funds and comply with the 3rd instalment in time. Immediately, the Defendant Bank issued the present Auction Sale Notice dated 26.03.2024 fixing the date of sale on 18.04.2024.

Main Grounds:-

- The impugned action of the Defendant suffers from errors apparent on the face of the record and hence the same is liable to be set aside/quashed by this Hon'ble Tribunal.

- The Defendant had not affixed the Possession Notice dated 07.05.2022 on the conspicuous part of the properties, nor was the same published in two newspapers as contemplated under the Rules.

- The Defendant ought to have seen that all the Auction Sale Notices were not affixed on the conspicuous part of the property, nor were the same properly published in two leading newspapers as contemplated under the Rules.

- The Defendant erred in undervaluing the property and fixing the lowest upset price to suit their convenience. Further, the Defendant Bank is carrying out excessive execution, which is not permissible in law.

- The Defendant ought to have seen that in the Auction Sale Notice, the date and time for payment of the EMD were mentioned as till the closure of the E-Auction. The same is illegal, and the Defendant Bank cannot accept the EMD by 1.00 PM for the E-Auction which commences at 11.00 AM on 18.04.2024. Hence, the Auction Sale Notice is illegal and liable to be set aside.

- The Defendant Bank ought to have seen that the Applicants, even though they are eligible for OTS under the NDND Scheme announced by the Defendant Bank in the year 2021, were not extended the same by the Defendant Bank for the reasons best known to them.

- The Defendant Bank ought to have seen that the Applicants are not chronic defaulters as they had repaid a substantial amount to the Defendant Bank. Altogether, the Applicants had paid a total sum of Rs.1,62,50,000/- after the issuance of the Demand Notice by the Defendant Bank apart from settling the Educational Loan to the tune of Rs.53,37,000/-.

SCHEDULE OF IMMOVABLE PROPERTIES

Item no.1

Virudhunagar District, Virudhunagar Registration District, Rajapalayam Sub-Registration Office, Rajapalayam village, Rajapalayam Municipality, Dharmapuram Street, Ward No.4, Present Election Ward No.5, site measuring East West on the North by 58 Ft., on the South by 62 Ft., North South on the West by 81 Ft., on the East by 77 Ft., thus totally measuring 4740 Sq. Ft. with building constructed therein bearing Door No.236A, Doors, Windows, Superstructures, Compound Wall etc., bounded on the

North: East West Street,

South: House Common Wall of N.S. Alaga Raja, Leelavathi and Rajalinga Raja,

East: Durai Raja House and Subbaraja House,

West: Arjuna Raja House and Sanjeeva Raja House.

Item no.2

Virudhunagar District, Virudhunagar Registration District, Rajapalayam Sub-Registration Office, Rajapalayam Village, Rajapalayam Municipality, Ward C, Block No.07, T.S.No.25, Municipality Ward No.5, Dharmapuram Street, House Bearing D.No.261 and 261A, EB Sc. No.07-282-016-206, Municipal Old Water Tap Connection No.127/16677, New Connection No.127/005/00428, D.No.261/1, Old Property Tax Assessment No.127/451, New Connection No.127/005/00429, Old Assessment

No.127/6896, New Assessment No.127/005/00843, house measuring East West on the Northern side 72 fts., on the Southern side 68 fts., North South on both sides 72.25 fts., thus totally measuring 5082 Sq. Ft., bounded on:

North: K.A.T. Srirenga Raja, B. Lingammal, N.A.P. Alagiri Raja, N.A.P. Ramalinga Raja, K.A. Boopathiraja sites,

South: East West Street,

East: Arjunan Naicker house and common wall,

West: N.A.P. Alagiri Raja and N.A.P. Ramalinga Raja sites,

The said property is situated in R.S.No.297/1, within the limits of Rajapalayam Municipality.

The Applicants have submitted the following consolidated typed set of papers in support of their claim in the SA, which are as follows: **(SA No. 178 of 2023)**

S.No.	Date	Nature of Documents
1.	21.04.2021	13(2) Demand Notice
2.	02.07.2021	1st 13(4) Possession Notice
3.	05.08.2021	Letter from the Defendant Bank withdrawing the 1st Possession Notice
4.	29.09.2021	Letter from the Defendant Bank informing about transfer of loan accounts
5.	07.05.2022	13(4) Possession Notice
6.	22.02.2023	Interim order in SA No.75 of 2023
7.	18.04.2023	Impugned Auction Sale Notice

The Applicants have submitted the following consolidated typed set of papers in support of their claim in the SA, which are as follows: **(SA No. 508 of 2023)**

S.No.	Date	Nature of Documents
1.	21.04.2021	13(2) Demand Notice
2	02.07.2021	1st 13(4) Possession Notice
3	05.08.2021	Letter from the Defendant Bank withdrawing the 1st Possession Notice
4	29.09.2021	Letter from the Defendant Bank informing about transfer of loan accounts

5	07.05.2022	13(4) Possession Notice
6	08.08.2023	Interim order in SA No.345 of 2023
7	07.09.2023	Auction Sale Notice

The Applicants have submitted the following consolidated typed set of papers in support of their claim in the SA, which are as follows: **(SA No. 279 of 2024)**

S.No.	Date	Nature of Documents
1.	21.04.2021	13(2) Demand Notice
2	02.07.2021	1st 13(4) Possession Notice
3	05.08.2021	Letter from the Defendant Bank withdrawing the 1st Possession Notice
4	29.09.2021	Letter from the Defendant Bank informing about transfer of loan accounts
5	07.05.2022	13(4) Possession Notice
6	21.02.2024	Interim order in SA No.119 of 2024
7	26.03.2024	Auction Sale Notice

The Applicants have submitted the following consolidated typed set of papers in support of their claim in the SA, which are as follows: **(SA No. 778 of 2025)**

S.No.	Date	Nature of Documents
1.	21.04.2021	13(2) Demand Notice
2	02.07.2021	1st 13(4) Possession Notice
3	05.08.2021	Letter from the Defendant Bank withdrawing the 1st Possession Notice
4	29.09.2021	Letter from the Defendant Bank informing about transfer of loan accounts
5	07.05.2022	13(4) Possession Notice (Impugned order)

3. On the other hand, the learned Counsel for the Defendant Bank appeared before this Tribunal and filed Vakalat, Reply Statement, Counter Affidavit, Typed Set, and Combined Typed Set along with Written Argument, in which it is submitted that the 1st Applicant, M/s. Shri Narayana Traders, represented by its Partner, Smt. Chitra, approached the Respondent Bank and availed a cash credit loan from the Respondent Bank on 31.08.2016 for a sum of **Rs.75,00,000/- (Rupees Seventy Five Lakhs Only)**. At the request made by the Applicants, the same was enhanced to **Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs Only)** on 18.01.2018. The 3rd and 4th Applicants and the guarantor, V.N. Dhanalakshmi, had deposited their title deeds with the Respondent Bank, and a registered Memorandum of Deposit of Title Deeds was made on 19.01.2018 in Doc. No.218 of 2018. An Educational Term Loan in the name of R. Viswath Narayanan and V.R. Panchali was availed for a sum of **Rs.45,00,000/- (Rupees Forty Five Lakhs Only)**, and the mortgaged property is the common security for both the credit facilities.

a) It is submitted that, During Covid-19, the loan was restructured as per RBI guidelines by granting a Funded Interest Term Loan of **Rs.11,00,000/- (Rupees Eleven Lakhs Only)** on 12.10.2020, by granting an extension of six months' time for paying the interest accrued for the loan account during the Covid-19 period. However, the borrower had defaulted and failed to repay the cash credit facility as agreed and promised.

b) It is further submitted that, despite sufficient opportunity, the Applicants failed to regularize the above loan accounts, and with no other alternative, the loan accounts were classified as Non-Performing Assets on 31.03.2021. The Defendant Bank had issued the Demand Notice on 21.04.2021. The borrower and the guarantor had failed to make any objections to the Demand Notice issued by the Defendant Bank.

c) It is further submitted that, the Defendant Bank issued a Possession Notice under Section 13(4) of the SARFAESI Act on 02.07.2021. The Respondent Bank withdrew the Possession Notice dated 02.07.2021 on 05.08.2021. A statutory Section 13(4) Possession Notice, in strict compliance with the statutory prescriptions, was issued by the Defendant Bank on 07.05.2022, and the same was published in two newspapers, Dinathanthi (Tamil) and The New Indian Express

(English), on 11.05.2022. The said notice was delivered by post to the borrower and guarantors. The notice was also affixed on the property. Acknowledgement Cards and compliance with the statutory requirements are all attached in the Typed Set of Papers.

d) It is further submitted that, the Defendant Bank issued the 1st Auction Sale Notice dated 05.08.2022, and the same was challenged by the Applicants in W.P. (MD) No.20200 of 2022. The Hon'ble High Court, by its order dated 01.09.2022, had granted a conditional stay subject to the deposit of Rs.50,00,000/- in five equal instalments. The Applicants had failed to comply with the orders of the Hon'ble High Court.

e) It is further submitted that, the Respondent Bank issued the 2nd Auction Sale Notice dated 21.01.2023 to the borrowers and guarantors, scheduling the auction sale on 03.03.2023. The Applicants had challenged the Sale Notice before this Hon'ble Tribunal in S.A. No.75 of 2023. A conditional stay was granted directing the Applicants to deposit Rs.70,00,000/- (Rupees Seventy Lakhs Only) in two instalments. The order was not complied with by the Applicants.

f) It is further submitted that, the Sale Notice was issued by the Respondent Bank on 18.04.2023, and the same was sent to the borrower and guarantor and was delivered. The notice was published in two newspapers, Dinathanthi (Tamil) and The New Indian Express (English), and the same was also affixed on the property. The Respondent Bank had complied with all the statutory procedures prescribed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act and the Rules framed thereunder.

g) It is further submitted that, the petitioner had failed to comply with the conditional order, and hence the interim stay granted by this Hon'ble Tribunal was automatically vacated, and the sale was confirmed in favour of the successful bidder, R. Ramakrishnakumar. It is further submitted that the sale pertaining to the subject property also attained finality. The auction purchaser paid the entire sale consideration of Rs.88,54,000/-, and the Sale Certificate was also issued on 03.07.2023. As held by the Hon'ble Apex Court in Shakeena & another v. Bank of India, reported in 2021 (12) SCC 761, which was followed in Indian Overseas Bank v. RCM Infrastructure Limited, reported in 2022 (8) SCC 516, the Petitioner's right of redemption has also lapsed. The amendment to the SARFAESI Act under Section 13(8) regarding the right of redemption of the borrower also substantiates that the right of redemption stands extinguished for the Petitioner.

h) It is further submitted that, the Writ Petition was filed before the Hon'ble Madurai Bench of the Madras High Court in W.P.(MD) No.16413 of 2023 praying for a Mandamus to grant extension of time to pay the 1st instalment as directed by this Hon'ble Tribunal in S.A. No.178 of 2023. The said Writ Petition was disposed of without any positive direction, leaving it to this Hon'ble Tribunal to take a decision on the extension petition filed by the Applicant. Subsequently, the extension petition was taken up for hearing, and status quo was ordered against the bidder. The said Securitisation Application is pending as on date.

i) It is further submitted that, the Sale Notice dated 26.07.2023 was issued by the Defendant Bank fixing the date of E-Auction as 18.08.2023 for the remaining property. Since there was no bidder, the sale did not take place on the said date.

j) It is further submitted that, the Sale Notice dated 07.09.2023 was issued by the Defendant Bank fixing the date of E-Auction as 29.09.2023 for the remaining property. Challenging the same, the Applicants filed S.A. No.508 of 2023. An interim order was granted directing the Applicants to deposit the amount as stated therein. The Applicants failed to comply with the said order. Since there was no bidder, the sale did not take place on the said date.

k) It is further submitted that, S.A. No.704 of 2023 was filed challenging the order passed by the Learned Chief Judicial Magistrate in the Section 14 Application filed by the Defendant Bank. An interim stay was granted in the said proceedings, and the S.A. was allowed by this Hon'ble Tribunal on 17.05.2024. Aggrieved by the same, a Regular Appeal in R.A. (S.A.) No.89 of 2024 was filed before the DRAT, Chennai, and the same was allowed on 12.06.2025. By virtue of the order passed by the DRAT, Chennai, the action of the Defendant Bank in issuing the Demand Notice, Possession Notice, and obtaining the order under Section 14 of the SARFAESI Act was declared to be valid.

l) It is further submitted that, the Sale Notice dated 01.02.2024 was issued by the Defendant Bank fixing the date of E-Auction as 22.02.2024 for the remaining property. Challenging the same, the Applicants filed S.A. No.119 of 2024. An interim order was granted directing the Applicants to deposit the amount as stated therein. The Applicants failed to comply with the said order. Since there was no bidder, the sale did not take place on the said date. Thereafter, the S.A. became infructuous and was closed by this Hon'ble Tribunal.

m) It is further submitted that, the Sale Notice dated 26.03.2024 was issued by the Defendant Bank fixing the date of E-Auction as 12.04.2024 for the remaining property. The said notice was served on the Applicants on 28.03.2024 and was affixed on the mortgaged premises on the same date. The Sale Notice was also published in Tamil and English newspapers on 28.03.2024. Before issuing the Sale Notice, a proper valuation was obtained. Challenging the said Sale Notice, S.A. No.279 of 2024 was filed, and the same is pending before this Hon'ble Tribunal.

n) It is further submitted that, more than seven Sale Notices were issued, and the Applicants had filed seven Securitisation Applications before this Hon'ble Tribunal as well as two Writ Petitions before the Hon'ble Madurai Bench of the Madras High Court. Though interim orders were initially granted in most of the cases, the same stood vacated due to non-compliance by the Applicants.

o) It is further submitted that, the Defendant Bank denied the averments raised in paragraphs (a) to (l) as false and submitted that the Applicants had failed to operate the loan account as agreed and had themselves admitted the default in the Securitisation Application. It was contended that the SARFAESI notices were valid and that proof thereof was enclosed in the Typed Set of Papers. The Defendant Bank further submitted that the Possession Notice and the impugned Sale Notices were duly served upon the borrowers and guarantors, affixed on the secured asset, and published in the newspapers in accordance with the provisions of the SARFAESI Act and Rules, and that all the prescribed statutory procedures had been duly followed. It was further contended that the Applicants were irregular in repaying the EMI, and though Emergency Credit was sanctioned as per the RBI circulars, they failed to repay the outstanding dues. The loan account was classified as NPA strictly in accordance with the prescribed procedure, and the allegations to the contrary were vague and unsupported by any material. It was also submitted that the RBI circulars relied upon by the Applicants were not applicable to their loan account, that only the earlier Possession Notice was withdrawn and not the NPA classification, and since the loan account was never upgraded, the date of NPA remained unchanged. The Defendant Bank contended that there was no legal bar in issuing a fresh Possession Notice after withdrawing the earlier one. It was further submitted that the statutory Possession Notice dated 07.05.2022 under Section 13(4) of the SARFAESI Act and the Sale Notice dated 18.04.2023 were issued in strict compliance with the statutory provisions, duly served, affixed on the secured asset, and published in the newspapers, and that the Acknowledgement Cards and proof of statutory compliance were enclosed in the Typed Set of Papers. Finally, the Defendant Bank submitted that the NDND Scheme was not applicable to the Applicants, that the same had already been communicated to them, and that the OTS proposals submitted by the Applicants were duly considered, rejected, and the rejection was promptly communicated.

Therefore, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the Application with cost and thus render justice.

Typed set filed by the 1st Defendant Bank **(SA No.178/2023)**

S.No.	Date	Particulars
1.	21.04.2021	Demand Notice issued to the Borrower and guarantor with acknowledgement cards
2.	07.05.2022	Possession Notice issued to the to the Borrower and guarantor with acknowledgement cards
3.	07.05.2022	Photographs for symbolic possession
4.	11.05.2022	Paper publications of Possession Notice
5.	18.04.2023	Sale Notice issued to the to the Borrower and guarantor with acknowledgement cards
6.	19.04.2023	Paper publications of Sale Notice

Typed set filed by the 1st Defendant Bank **(SA No.178/2023)**

S.No.	Date	Particulars
1.	18.05.2023	Online e-auction Bid Form and intimation given to the bank regarding remittance of 10% of the Reserve Price as EMD on 17.05.2023
2.	19.05.2023	Declaring the 2nd Defendant as H1 Bidder by the e-Auction Service Provider
3.	19.06.2023	Communication given to the bidder regarding the confirmation of the sale
4.	03.07.2023	Issuance of Certificate of Sale
5.	04.07.2023	Details of the Sale proceed Appropriation
6.	04.08.2023	Registration of Certificate of Sale
7.	----	Statement of Accounts for 18.05.2023, 19.05.2023 & 27.06.2023

Typed set filed by the 1st Defendant Bank **(SA No.279/2024)**

S.No.	Date	Particulars
1.	21.04.2021	Demand Notice under Section under Section 13(2) of the SARFAESI Act to the borrower and Legal Heirs of Deceased Dhanalakshmi (Guarantor) with Acknowledgment
2.	21.04.2021	Demand Notice under Section under Section 13(2) of the SARFAESI Act to the Guarantor with Acknowledgment
3.	07.05.2022	Possession Notice with Acknowledgment
4.	07.05.2022	Photograph showing affixture of the Possession Notice
5.	21.09.2023	Paper Publication in Tamil and Times of English Daily for Possession Notice
6.	26.03.2024	Sale Notice with Acknowledgment Card
7.	26.03.2024	Photograph showing affixture of the Sale Notice
8.	28.03.2024	Paper Publication in Tamil and English Daily
9.	24.01.2024	Valuation Report

Common Typed set filed by the 1st Defendant Bank **(SA No.279/2024)**

S.No.	Date	Particulars
1.	21.04.2021	Demand Notice under Section under Section 13(2) of the SARFAESI Act to the borrower and Legal Heirs of Deceased Dhanalakshmi (Guarantor) with Acknowledgment

2.	21.04.2021	Demand Notice under Section under Section 13(2) of the SARFAESI Act to the Guarantor with Acknowledgment
3.	07.05.2022	Possession Notice with Acknowledgment
4.	07.05.2022	Photograph showing affixture of the Possession Notice
5.	21.09.2023	Paper Publication in Tamil and Times of English Daily for Possession Notice
6.	23.07.2022	Valuation Report for Vacant Land
7.	01.08.2022	Valuation report for land with building
8.	01.09.2022	Order passed in WP(MD) No.20200 of 2022 by Madurai Bench of Madras High Court
9.	18.04.2023	Sale Notice with Acknowledgment Card
10.	20.04.2023	Paper Publication of Sale Notice in Tamil and English Daily
11.	18.04.2023	Photograph showing affixture of the Sale Notice
12.	19.05.2023	Interim Order passed in SA No.178 of 2023 by DRT Madurai
13.	06.07.2023	Order Passed in WP(MD).No. 16413 of 2023 on the file of the Madurai Bench of Madras High Court
14.	03.07.2023	Certificate of Sale
15.	04.08.2023	Registration of Certificate of Sale
16.	07.09.2023	Sale Notice with Acknowledgment Card
17.	09.09.2023	Paper Publication of Sale Notice in Tamil and English Daily
18.	07.09.2023	Photograph showing affixture of the Sale Notice
19.	24.01.2024	Valuation Report for land with building
20.	26.03.2024	Sale Notice with AD Card
21.	26.03.2024	Photograph showing affixture of the Sale Notice
22.	28.03.2024	Paper Publication of Sale Notice in Tamil and English Daily
23.	17.05.2024	Orders passed in SA.No 704 of 2023 by this Hon'ble Tribunal
24.	12.06.2025	Orders passed in Regular Appeal RA(SA) 89 of 2024 by the Hon'ble DRAT.
25.	----	CERSAI Registration Report

4. The Counsel for the 2nd Defendant/Auction Purchaser appeared before this Tribunal and filed Vakalat, Written Statement in which it is submitted that the above Application in S.A. No.178 of 2023 has been filed by the Applicants challenging the E-Auction Sale Notice dated 18.04.2023 issued by the 1st Defendant Bank, whereby the sale was scheduled to be held on 19.05.2023. In this regard, this Hon'ble Tribunal was pleased to grant an interim stay directing the Applicants to deposit a sum of **Rs.70,00,000/- (Rupees Seventy Lakhs Only)** with the 1st Defendant Bank, with **Rs.35,00,000/- (Rupees Thirty Five Lakhs Only)** to be paid on or before 16.06.2023 and another sum of **Rs.35,00,000/- (Rupees Thirty Five Lakhs Only)** to be paid on or before 14.07.2023. The 1st Defendant Bank, upon receiving the amount as ordered by this Tribunal, was directed not to confirm the sale, if any, held on the scheduled auction date. It was further ordered that if the Applicants failed to deposit any part of the amount as directed by this Tribunal, the 1st Defendant Bank would be at liberty to proceed further under the SARFAESI Act without any reference to this Tribunal. In view of the above, the Applicants failed to comply with the conditional order, and consequently, the interim order stood automatically vacated.

a) It is further submitted that, at this juncture, on 19.05.2023, the 1st Defendant Bank conducted the sale in respect of the 1st item of the schedule property. I participated in the auction and became the successful bidder by depositing the EMD amount. The Sale Confirmation Letter was also issued to me on 19.06.2023. Subsequently, the Applicants filed I.A. No.1193 of 2023 to implead me as the 2nd Defendant in the main case, and the same was allowed on 07.09.2023.

b) It is further submitted that, I have since paid the balance bid amount, totaling **Rs.88,54,000/- (Rupees Eighty Eight Lakhs Fifty Four Thousand Only)**, and the Sale Certificate has been executed in my favour and possession has also been handed over to me. Therefore, this S.A. challenging the E-Auction Sale Notice has become infructuous. Moreover, the Hon'ble Supreme Court, in [2023] 13 S.C.R. 53, reiterated that the borrower loses the right to redeem the property under the SARFAESI Act once the Bank publishes the auction notice for the sale of the secured asset. In other words, the right of redemption expires when the auction notice is published and not after the sale is completed.

Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the above SARFAESI Application with cost and thus render justice.

5. ON THE BASIS OF ABOVE PLEADINGS THE POINT WHICH ARISES FOR CONSIDERATION IS:-

WHETHER THE APPLICANTS ARE ENTITLED TO GET THE RELIEFS AS PRAYED FOR?

6. Having heard the parties, I perused the record alongwith entire documents available on record, I find that the Applicants had availed various credit facilities from the Defendant Bank by mortgaging the schedule-mentioned properties. It is further stated that, initially, the Applicants were regular in repaying the loan as agreed with the Defendant Bank. However, it is admitted by the Applicants in their pleadings that, due to the COVID-19 pandemic and their inability to recover receivables from their suppliers, they were unable to repay certain loan dues to the Defendant Bank. Consequently, the Defendant Bank classified the loan account as NPA on 31.03.2021 and initiated proceedings under the SARFAESI Act. Though the Applicants have contended that such classification is contrary to the RBI guidelines applicable to MSMEs during the COVID-19 period, they have not placed any material on record to establish that they had applied for restructuring of the loan account in accordance with the said guidelines or that they satisfied the eligibility criteria prescribed therein. On the contrary, the Defendant Bank has contended that, during the COVID-19 period, the loan account was restructured in terms of the RBI guidelines by sanctioning a Funded

Interest Term Loan (FITL) of **Rs.11,00,000/- (Rupees Eleven Lakhs only)** on 12.10.2020. A perusal of the Demand Notice dated 21.04.2021 also reveals that the FITL COVID loan has been specifically reflected therein. In view of the above, this Tribunal does not find any illegality in the classification of the loan account as NPA. It is, however, observed that neither the Applicants nor the Defendant Bank has produced the statement of accounts relating to the loan account.

7. Thereafter, the Defendant Bank issued a Demand Notice under Section 13(2) of the SARFAESI Act on 21.04.2021 to the borrowers for a sum of **Rs.1,63,64,809.90/- (Rupees One Crore Sixty Three Lakhs Sixty Four Thousand Eight Hundred and Nine and Ninety Paise only)** as on 31.03.2021. I have also perused the documents filed by the Defendant Bank. The Defendant Bank has submitted xerox copies of the Demand Notice along with acknowledgment receipts, which are annexed at pages 1 to 17 of the Bank's common typed set of papers. The Applicants admit that upon receipt of the demand notice, they sought restructuring of the loan account. However, no documentary evidence has been produced by the Applicants in support of the said claim.

8. Thereafter, the Defendant Bank issued a Possession Notice dated 02.07.2021 to the borrowers. However, the said notice was withdrawn due to technical reasons, and the same was intimated to the Applicants vide letter dated 05.08.2021 (Page No. 20 of the Applicants' typed set in SA No. 1780 of 2023). Subsequently, a fresh Possession Notice dated 07.05.2022 was issued demanding a sum of **Rs.1,90,81,553/- (Rupees One Crore Ninety Lakhs Eighty-One Thousand Five Hundred and Fifty-Three only)** as on 05.05.2022. In support thereof, the Defendant Bank has produced xerox copies of the Possession Notice, acknowledgment (AD) cards, photographs evidencing affixture on the schedule-mentioned properties, and copies of the alleged newspaper publications in one English daily and one Tamil daily (Pages 26 to 38 of the Defendant Bank's common typed set of papers). The Applicants contended that the Possession Notice was neither affixed on a conspicuous part of the secured assets nor published in two leading newspapers as contemplated under the Act and the Rules. However, I find that the Defendant Bank, in its pleadings, has stated that the Possession Notice was published in Dinathanthi (Tamil) and The New Indian Express (English) on 11.05.2022. On a perusal of the typed set filed by the Defendant Bank in SA No. 279 of 2024, particularly at Page No. 35, I find that the English newspaper publication merely contains a handwritten endorsement mentioning the newspaper as "The Hindu" dated 11.05.2022, without indicating the edition or locality of publication. Likewise, the Tamil newspaper publication merely bears a handwritten endorsement stating "Dinathanthi" dated 11.05.2022, without specifying the locality or edition. These discrepancies materially contradict the Defendant Bank's pleadings and cast serious doubt on the genuineness of the alleged newspaper publications. Although the records establish that the Possession Notice was served on the Applicants and affixed on the secured assets, the statutory requirement relating to publication in newspapers remains unsubstantiated. However, as the validity of the Possession Notice had already been conclusively determined in S.A. No. 704 of 2023, the issue had attained finality. Aggrieved by the said order, the Defendant Bank preferred an appeal before the DRAT, Chennai in **R.A. (S.A.) No. 89 of 2024**. The said appeal was allowed, and the order passed in S.A. No. 704 of 2023 was set aside, resulting in the dismissal of the said S.A.

9. Thereafter, the Defendant Bank issued a Sale Notice dated 05.08.2022 and proceeded to bring the secured assets for sale. I find that the Defendant Bank has not produced any material in support of the said Sale Notice, such as photographs evidencing affixture or newspaper publications. In the absence of such records, it is not possible to verify whether the Defendant Bank had complied with the procedure prescribed under the SARFAESI Act and the Rules while issuing the Sale Notice. It is further seen that the Applicants challenged the said Sale Notice before the Hon'ble High Court of Madras, Madurai Bench, in W.P. (MD) No. 20200 of 2022. By order dated 01.09.2022, the Hon'ble High Court directed the Defendant Bank to defer the auction proceedings, subject to the condition that the Applicants deposit a sum of **Rs.50,00,000/- (Rupees Fifty Lakhs only)** in five instalments of **Rs.10,00,000/- (Rupees Ten Lakhs only)** each. I find that the Applicants deposited a sum of Rs.32.50 lakhs out of the said amount of Rs.50.00 lakhs and also settled the Education Loan by paying **Rs.53,37,534/- (Rupees Fifty-Three Lakhs Thirty-Seven Thousand Five Hundred and Thirty-Four only)**.

10. Subsequently, the Defendant Bank issued the second Sale Notice dated 21.01.2023. The Applicants challenged the said Sale Notice by filing **SA No. 75 of 2023**, wherein this Tribunal granted an interim conditional order. However, the Applicants failed to comply with the conditions imposed. Thereafter, as the auction could not be conducted for want of bidders, the Securitisation Application became infructuous.

11. Thereafter, the Defendant Bank issued the third Sale Notice dated 18.04.2023 for a sum of **Rs.1,80,68,121/- (Rupees One Crore Eighty Lakhs Sixty-Eight Thousand One Hundred Twenty-One only)** and conducted the auction sale on 19.05.2023, wherein the secured asset was sold in favour of the second Defendant. I find that the Defendant Bank has produced xerox copies of the Sale Notice, acknowledgment (AD) cards, photographs evidencing affixture, and newspaper publications. The AD cards evidencing dispatch of the Sale Notice to the Applicants are found at Pages 80 to 83 of the common typed set of papers, while the photographs showing affixture of the Sale Notice on a conspicuous part of the secured asset are available at Pages 88 to 91 of the common typed set of papers. The Defendant Bank has also filed xerox copies of the alleged newspaper publications in both Tamil and English at Pages 84 to 87 of the common typed set of papers. However, the said copies do not disclose the name of the newspaper, the date of publication, or the place/edition of publication. In the absence of these particulars, the authenticity of the newspaper publications cannot be verified. Moreover, in the Sale Notice, the terms and conditions of the sale have not been provided; only a link has been given, making it difficult to verify whether the terms and conditions of the sale were complied with by the auction purchaser. It is also pertinent to note that, despite specific directions of this Tribunal, the Defendant Bank has failed to produce the original records to establish the genuineness of the said documents. Thus, I find that the Defendant Bank has not followed the Rule 8(6) & (7) of the Security Interest (Enforcement) Rules 2002, which clearly says that,

"Rule 8(6) & (7) in the Security Interest (Enforcement) Rules, 2002:-

"(6) The authorized officer shall serve to the borrower a notice of thirty days for sale of the immovable secured assets, under sub-rule (5):

[Provided that if the sale of such secured asset is being effected by either inviting tenders from the public or by holding public auction, the secured creditor shall cause a public notice in the Form given in Appendix IV-A ***to be published in two leading newspapers including one in vernacular language having wide circulation in the locality****.]"*

"(7) [Every notice of sale shall be affixed on the conspicuous part of the immovable property and the authorised officer shall upload the detailed terms and conditions of the sale, on the web- site of the secured creditor, which shall include;

(a)the description of the immovable property to be sold, including ***the details of the encumbrances known to the secured creditor****;*

(b)the secured debt for recovery of which the property is to be sold;

(c)reserve price of the immovable secured assets below which the property may not be sold;

(d)time and place of public auction or the time after which sale by any other mode shall be completed;

(e)deposit of earnest money as may be stipulated by the secured creditor;

(f)any other terms and conditions, which the authorized officer considers it necessary for a purchaser to know the nature and value of the property.]"

12. Thereafter, the Defendant Bank issued the fourth Sale Notice dated 28.07.2023, the fifth Sale Notice dated 07.09.2023, and the sixth Sale Notice dated 01.02.2024. However, as there were no bidders, none of the proposed auction sales materialised.

13. Further, the Defendant Bank has produced xerox copies of the fifth Sale Notice dated 07.09.2023, acknowledgment (AD) cards, photographs purportedly evidencing affixture, and newspaper publications. The AD cards evidencing dispatch of the Sale Notice to the Applicants are found at Pages 120 to 125 of the common typed set of papers. The Bank has also filed xerox copies of the alleged newspaper publications in both Tamil and English at Pages 126 to 129 of the common typed set of papers. However, the said copies do not disclose the name of the newspaper, the date of publication, or the place/edition of publication. The Defendant Bank has further produced a xerox photograph purportedly showing affixture of the Sale Notice on a conspicuous part of the secured asset. However, the date of affixture appears to have been handwritten as "07.09.2023". During the course of arguments, the learned counsel for the Applicants raised a serious objection regarding the genuineness of the photograph by pointing out that, on a comparison of the photographs relating to the affixture of the Sale Notices dated 18.04.2023 and 07.09.2023, found at Pages 89 and 130 of the Defendant Bank's common typed set of papers, the same individual appears in the right corner of both photographs wearing identical attire. The Defendant Bank has neither offered any explanation for the said similarity nor produced the original photographs despite the specific direction of this Tribunal. These circumstances cast a serious doubt on the authenticity and evidentiary value of the photographic records relied upon by the Defendant Bank. This Tribunal is, therefore, constrained to draw an adverse inference against the Defendant Bank with regard to its compliance with the statutory requirement of affixture. Before parting with this issue, this Tribunal deems it appropriate to observe that secured creditors should maintain contemporaneous and reliable photographic records, preferably containing identifiable date, time, and location details, and preserve the original digital records so that their authenticity can be readily verified whenever called upon by the Tribunal. Such a practice would promote transparency and inspire confidence in the fairness of the enforcement proceedings under the SARFAESI Act.

14. Thereafter, the Defendant Bank issued the impugned Sale Notice dated 26.03.2024 for a sum of **Rs.61,43,373/- (Rupees Sixty-One Lakhs Forty-Three Thousand Three Hundred and Seventy-Three only)** as on 25.03.2024 and proceeded to conduct the auction sale on 18.04.2024. I find that the Defendant Bank has produced xerox copies of the Sale Notice, acknowledgment (AD) cards, photographs purportedly evidencing affixture, and newspaper publications. The AD cards evidencing dispatch of the Sale Notice to the Applicants are available at Pages 154 to 155 of the common typed set of papers. The Defendant Bank has also produced a xerox copy of a photograph purportedly showing affixture of the Sale Notice on a conspicuous part of the secured asset. However, the date of affixture appears to have been handwritten as "26.03.2024" (Page 156 of the common typed set of papers). The xerox copies of the alleged newspaper publications in both Tamil and English, available at Pages 157 to 160 of the common typed set of papers, do not disclose the name of the newspaper, the date of publication, or the place/edition of publication. Further, the Sale Notice does not contain the terms and conditions governing the sale and merely provides a web link for the same. The Defendant Bank has also failed to produce the original records, despite specific directions of this Tribunal, thereby preventing verification of the authenticity and genuineness of the documents relied upon by it. Thus, I find that the Defendants Bank have not followed the Rule 8(6) & (7) of the Security Interest (Enforcement) Rules 2002, which clearly says that,

"Rule 8(6) & (7) in the Security Interest (Enforcement) R ules, 2002:-

"(6) The authorized officer shall serve to the borrower a notice of thirty days for sale of the immovable secured assets, under sub-rule (5):

[Provided that if the sale of such secured asset is being effected by either inviting tenders from the public or by holding public auction, the secured creditor shall cause a public notice in the Form given in Appendix IV-A to be published in two leading newspapers including one in vernacular language having wide circulation in the locality.]"

"(7) [Every notice of sale shall be affixed on the conspicuous part of the immovable property and the authorised officer shall upload ***the detailed terms and conditions of the sale,*** *on the web- site of the secured creditor, which shall include;*

(a)the description of the immovable property to be sold, including the details of the encumbrances known to the secured creditor;

(b)the secured debt for recovery of which the property is to be sold;

(c)reserve price of the immovable secured assets below which the property may not be sold;

(d)time and place of public auction or the time after which sale by any other mode shall be completed;

(e)deposit of earnest money as may be stipulated by the secured creditor;

(f)any other terms and conditions, which the authorized officer considers it necessary for a purchaser to know the nature and value of the property.]"

15. On scrutiny of the Valuation Report dated 23.07.2022 & 01.08.2022 at pages 39 to 70 of the Defendant Bank common typed set of papers the following observations are brought on record:

Property No.1

i) Present Market Value of the property – Rs.97,83,000 /-

ii) Realizable Value of the property – Rs.88,04,700/-

Property No.2

i) Present Market Value of the property – Rs.1,51,54,100/-

ii) Realizable Value of the property – Rs.1,36,38,700/-

<u>Valuation report dated 24.01.2024 for Property No.2</u>

i) Present Market Value of the property – Rs.1,50,67,000/-

ii) Realizable Value of the property – Rs.1,35,60,300/-

A comparison of the above valuation reports reveals certain discrepancies. The land value of Property No. 2 has remained unchanged at **Rs.1,05,21,000/- (Rupees One Crore Five Lakhs Twenty-One Thousand only)** in both the 2022 and 2024 valuation reports <u>(Pages 65 and 144 of the common typed set of papers)</u>, despite the passage of nearly two years. Ordinarily, the value of immovable property is expected to appreciate over time unless there are cogent reasons to the contrary. However, neither the Defendant Bank nor the approved valuer has furnished any explanation for the absence of any variation in the land value. Further, upon comparing the valuation report dated 23.07.2022, it is found that Pages 43 and 44 are incomplete, and the property boundaries have not been mentioned therein. It is also noticed that the valuation reports do not bear the signature of the secured creditor. During the course of arguments, the learned counsel for the Applicants further pointed out that the compound wall had not been taken into account in the valuation report dated 24.01.2024, whereas the same has been specifically mentioned in Annexure-I to the Sale Certificate <u>(Page 106 of the common typed set of papers)</u>. The Defendant Bank has not offered any explanation for the said discrepancy. The cumulative effect of these deficiencies casts serious doubt on the correctness and reliability of the valuation reports relied upon by the Defendant Bank. Consequently, the Defendant Bank has failed to demonstrate that the reserve price was fixed in strict compliance with Rule 8(5) of the Security Interest (Enforcement) Rules, 2002. Rule 8(5) reads as follows:

"(5) Before effecting sale of the immovable property referred to in sub-rule (1) of rule 9, the authorized officer shall obtain valuation of the

property from an approved valuer and ***in consultation with the secured creditor****, fix the reserve price of the property and may sell the whole or any part of such immovable secured asset by any of the methods provided therein".*

16. Thereafter, the Defendant Bank issued a Sale Certificate dated 03.07.2023 in favour of the second Defendant and has produced a xerox copy of the same. On a perusal of the records, it is observed that, at Page No. 6 of the Defendant Bank's typed set in SA No. 178 of 2023, the letter dated 19.06.2023 required the auction purchaser to pay the balance 75% of the sale consideration within 15 days from the date of the letter, i.e., on or before 02.07.2023. The records disclose that 74% of the sale consideration was paid on 27.06.2023. However, no material has been produced to establish that the remaining 1% of the sale consideration was paid within the stipulated period. During the course of arguments, the learned counsel for the Applicants further pointed out a discrepancy in the records. On a comparison of Pages 100 and 103 of the common typed set of papers, the receipt acknowledges a sum of **Rs.87,65,460/- (Rupees Eighty-Seven Lakhs Sixty-Five Thousand Four Hundred and Sixty only)** as constituting 99% of the sale consideration paid in full by the highest bidder. However, the Sale Certificate registered on 04.08.2023 records the corresponding amount as **Rs.88,54,000/- (Rupees Eighty-Eight Lakhs Fifty-Four Thousand only)** being 99% of the sale consideration paid in full by the highest bidder. The Defendant Bank has neither explained nor disputed this discrepancy. Such unexplained inconsistencies in the records, coupled with the absence of proof regarding payment of the balance sale consideration within the prescribed period, cast serious doubt on the validity of the sale. Accordingly, I find that the Defendant Bank has failed to establish compliance with Rule 9(4) of the Security Interest (Enforcement) Rules, 2002, which reads as follows:

> *"(4) The balance amount of purchase price payable shall be paid by the purchaser to the Authorised Officer on or before the fifteenth day of confirmation of sale of the immovable property or such extended period [as*

may be agreed upon in writing between the purchaser and the secured creditor, in any case not exceeding three months].

17. The Defendant Bank issued the Sale Certificates dated 03.07.2023 pursuant to the Sale Notice dated 18.04.2023 without strictly complying with the mandatory provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002. Such non-compliance vitiates the sale proceedings culminating in the issuance of the Sale Certificates. Accordingly, the Sale Certificates dated 03.07.2023 are unsustainable in the eye of law.

18. The contention of the 2nd Defendant/Auction Purchaser that he is a bona fide purchaser for valuable consideration has also been considered by this Tribunal. However, it is well settled that if the sale itself is vitiated on account of non-compliance with mandatory statutory provisions, the same cannot be sustained merely on the ground that the purchaser is a bona fide purchaser. The illegality in the conduct of the sale cannot be cured on that ground.

19. The Applicants have no doubt being defaulters are liable to pay the loan amount to the Defendant Bank and the Bank has been given ample power to recover the outstanding loan amount from the borrowers by invoking the SARFAESI Act and without the intervention of any Court. But it shall not allow the Bank to take the possession & to sell the property of the Applicants without following the due process of law strictly.

20. In view of the above discussions, I find that the Defendant has proceeded under the SARFAESI Act and rules for recovery of money from the Applicants but they have not followed the procedure as mentioned in the SARFAESI Act & Rules strictly and failed to rebut successfully the allegations made by the Applicants. Therefore, this Tribunal holds that the Applicants are entitled to get the reliefs as prayed for in **SA No.178/2023, and 279/2024**.

In the result,

(a) **SA No.778/2025 is disposed of. As per the order passed in DRAT, Chennai Vide R.A. (S.A.) No.89 of 2024**.

(b) **SA No.508/2023 is disposed of** with a direction that the Defendant Bank shall not include the expenditures incurred in issuing the impugned Sale Notice dated 07.09.2023 in the loan account of the Applicants.

(c) **SA No.279/2024 is allowed.** The Sale Notice dated 26.03.2024 is hereby set aside.

(d) **SA No.178/2023 is allowed.** The sale held on 19.05.2023 is not in accordance with law. Accordingly, the Sale Notice dated 18.04.2023 issued in respect of the secured asset are hereby set aside. Consequently, Sale Certificates dated 03.07.2023 is also hereby set aside by this Tribunal.

(e) The Defendant is directed to refund the entire sale consideration amount paid by the Auction purchaser along with 4% of interest to the Auction purchaser from the date of deposit of money till the refund within one month from the date of receipt of copy of the Order.

(f) The Applicants shall make payment of the amount, if any, incurred by the Auction Purchaser towards stamp duty and registration charges within one month from the date of receipt of a copy of this Order.

(g) The Applicant is also directed to pay the interest at the rate of 4% of the sale price to the Defendant from the date of payment of Sale price by the Auction Purchaser till the date of refund to the Auction Purchaser by the Defendant within one month from the date of receipt of copy of the Order.

(h) All the expenditures incurred in respect of All Sale Notices shall not be included in the loan account of the Applicants.

(i) The Defendant is at liberty to initiate fresh action against the Applicant for recovery of loan amount following strictly the SARFAESI Acts & Rules.

(j) The Registry is directed to inform the Rajapalayam Sub Registrar Office about this order so as to cancel the registration of the Sale Certificate dated 03.07.2023 vide Doc. No: 4253 of 2023 dated 04.08.2023.

Consequently, all pending IAs (if any) are also disposed of. No costs.

Dictated to LDC (KK), taken down, transcribed, typed by him, corrected and pronounced by me in the Open Court in this the 02nd July, 2026.

Sd/-
(SEEMA SINHA)
PRESIDING OFFICER

Uploaded on 14.07.2026