THE DEBTS RECOVERY TRIBUNAL-2, KERALA
AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated this the 16th day of July, 2026

SECURITIZATION APPLICATION No.303/2024

Between

1. Ayyappan M.,
S/o.Mariyappan Achari,
'Revathi Nivas',
Near Amman Kovil,
Janardhanapuram,
Varkala Taluk,
Varkala Village,
Thiruvananthapuram District,
Pin – 695 141.

2. Padmarani A.,
W/o.Ayyappan M.,
'Revathi Nivas',
Near Amman Kovil,
Janardhanapuram,
Varkala Taluk,
Varkala Village,
Thiruvananthapuram District,
Pin – 695 141. …Applicants

And

The Authorised Officer/
The Kerala State Co-Operative Bank Ltd.,
(Erstwhile Thiruvananthapuram
District Co-Operative Bank Ltd)
Regional Office,
Post Box No.5122,
East Fort P.O.,
Thruvananthapuram District,
Pin - 695 001. ….Defendant

This Securitization Application having been heard on 17.06.2026 in the presence of Advocate Mr. Aju Mathew for the applicants and stood over to this day for consideration, the Tribunal delivered the following:

F I N A L O R D E R

Challenging the securitization proceedings initiated by the defendant under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'), the applicants/borrower and guarantor have filed this SA under S.17(1) of the SARFAESI Act seeking relief to set aside securitization proceeding including the proceeding u/s.14 of the SARFAESI Act and the notice issued by the advocate commissioner.

Brief facts of the case:

2.1 The applicants, being the husband and wife, availed KB Mithra Term Loan (MSME) for a sum of ₹60,00,000/- from the Varkala Branch of the defendant bank in the year 2022 by mortgaging their property described in the SA.

2.2 Due to some financial crisis, the loan could not be repaid in time. The defendant issued a demand notice u/s.13(2) of the SARFAESI Act on 12.07.2023, calling the applicant to repay the outstanding amount of ₹66,73,577/-. On receipt of such notice, the applicants approached the defendant bank to allow them to regularize the loan by remitting overdue amount. But the defendant did not listen and proceeded with the securitization proceeding. They filed M.C.46/2024 u/s.14 of the SARFAESI Act before the CJM Court, Thiruvananthapuram and obtained an order illegally without complying the statutory requirement. The advocate commissioner has issued notice to take possession of the same based upon such illegal order. Hence the SA is filed by the applicant challenging the securitization proceeding including the proceeding u/s.14 of the SARFAESI Act and the notice issued by the advocate commissioner.

3. The defendant filed written statement in this case. But the Registry declined to accept the same due to some defect. Thereafter, the defendant did not turn up to participate in the proceeding.

4. From the case of the applicants, sole question arises for adjudication whether the securitization proceedings initiated by the defendant suffer from any illegality to intervene with the same?

5. The applicants claimed that the demand notice was not issued and it was not served on them and the affidavit filed by the

Authorized Officer before the CJM is not as per the statutory requirement. Though the written statement of the defendant is rejected due to non-curing of the defect, but the defendant produced document showing delivery of demand notice by Registrar Court with AD card. The applicants have not denied receipt of such postal ID cards duly signed by them. In absence of denial on the part of the applicants, the presumption can be drawn that the demand notice was duly served on the applicants. Hence, the contention of the learned counsel for the applicants on this aspect is not acceptable.

6. It is submitted that, in the affidavit filed by the Authorised Officer, only the aggregate amount due as on 31.10.2023 is shown but the application is filed on 06.01.2024, nearly two months after swearing of the affidavit. The aggregate amount outstanding as on the date of application is not stated in the affidavit of the authorised officer. In absence of proper application, the declaration filed by the authorized officer before the learned CJM in the proceeding under Section 14(1) of the SARFAESI Act cannot be accepted as valid. Based upon such illegal proceeding, the defendant cannot take possession of the secured assets. In such premises, the applicant is entitled to get the relief in

setting aside the proceeding initiated u/s.14 of the SARFAESI Act. But the defendant may initiate fresh proceeding under sec.14 of the SARFAESI Act to take physical possession of the secured asset in accordance with the law.

Hence it is ordered:-

ORDER

7. In view of the foregoing reasons, the SA is allowed and the proceeding u/s.14 of the SARFAESI Act is hereby set aside giving opportunity to the defendant to file fresh application u/s.14 of the SARFAESI Act in accordance with the law to take physical possession of the secured assets, but in the circumstances without costs.

(Dictated to my steno, corrected and pronounced by me in the open Tribunal on this the 16th day of July, 2026).

[SOVAN KUMAR DASH]
PRESIDING OFFICER

Documents on the part of the applicant

Annexures	Date	Particulars of documents
A1	28.03.2024	True copy of the Medical Certificate issued from KIMS Healthcare Hospital, Thiruvananthapuram.
A2	-	True copy of the discharge card issued from Government Ayurveda College Hospital, Thiruvananthapuram.
A3	25.09.2023	True copy of notice issued by the defendant bank under Section 13(4) of the SARFAESI Act.
A3(a)	-	English translation of Annexure A3 notice.
A4	06.01.2024	True copy of complaint filed by the defendant bank before the Chief Judicial Magistrate Court, Thiruvananthapuram as M.C.No.46/2024
A5	06.01.2024	True copy of the affidavit filed in M.C.No.46 of 2024 on the file of the Chief Judicial Magistrate Court, Thiruvananthapuram.
A6	09.02.2024	True copy of the Order passed in M.C.No.46 of 2024 on the file of the Chief Judicial Magistrate Court, Thiruvananthapuram.
A7	03.04.2024	True copy of the notice issued by Advocate Anusree S.S., Advocate Commissioner.

A7(a)	-	English translation of Annexure A7 notice.

Documents on the part of the defendants

Nil

PRESIDING OFFICER

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