IN THE DEBTS RECOVERY TRIBUNAL-2, KERALA
AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated this the 20th day of July, 2026

**SECURITIZATION APPLICATION No.701/2023**

Between

1. Prasanna Kumari,
D/o. Padmavati,
Elamthotathu Puthen Veedu,
Melkolla,
Dhanuvachapuram P.O.,
Thiruvananthapuram – 695 503.

2. Sreedharan,
S/o. Sukumaran,
Elamthotathu Puthen Veedu,
Melkolla,
Dhanuvachapuram P.O.,
Thiruvananthapuram – 695 503.

3. Jagadamma,
D/o. Padmavati,
Elamthotathu Puthen Veedu,
Melkolla,
Dhanuvachapuram P.O.,
Thiruvananthapuram – 695 503. …Applicants

And

1. Authorized Officer,
State Bank of India,
SMEC Thiruvananthapuram,
SME Centre (13202),
4th Floor,
Aikkara Arbour,
Thycaud,

Thiruvananthapuram,
Pin – 695 014.

2. P. Vijayakumaran,
S/o.Ponnan,
Nanali Veedu,
Dhanuvachapuram,
Thiruvananthapuram – 695 503.

This Securitization Application having been heard on 03.07.2026 in the presence of Advocate Mr. R.T. Pradeep for the applicants and Advocate Mr. M.S. Kalesh for the defendant No.1 and Advocate Ms. Sreedevi for the defendant No.2 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 defendants 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/legal heirs of borrower have filed this SA under S.17(1) of the SARFAESI Act challenging all the securitization measures including the sale notice with a prayer to set aside the same.

**Brief facts of the case**:

2.1 Applicants, being the sisters and brother of one Rajesh who died intestate on 23.12.2017, have filed this SA challenging securitization proceeding initiated by the defendants.

2.2. The deceased Rajesh availed credit facility for his jewelry business under the name and style “Sree Padma Jewelry Works” by creating security interest over an extent of 1.28 Ares of property with a residential building there on. He defaulted in repayment of the loan. Subsequently he died unmarried leaving the applicants as his successors. The applicants claim that they are residing in the subject matter property, which was mortgaged by the deceased Rajesh.

2.3 The applicants received a notice on 23.01.2019 from the defendant bank regarding outstanding liability in the cash credit facility availed by late Rajesh. After receipt of the said notice the applicants approached the defendant bank requesting to afford opportunity to redeem the loan. But the defendant proceeded with the securitization measures and issued e-auction sale notice on 30.04.2019 fixing the reserve price of the property at ₹9,45,000/-. Then the applicants approached the Hon’ble High Court of Kerala in WP(C)No.12591/2019, challenging such sale notice. During pendency of the writ application, the secured asset was sold to the respondent/defendant No.2 at a bid amount of ₹9,50,000/-. The 1st defendant also filed M.C.No.542/2019 before the CJM Court, Thiruvananthapuram to take physical possession of the secured asset after disposal of the writ application by the Hon'ble High Court of Kerala. This SA is filed on 06.12.2023 based upon the judgment of the Hon'ble High Court of Kerala challenging all the securitization measures including the sale notice with a prayer to set aside the same.

3.1 The defendant No.1 filed written statement denying the averments in the application and claimed that the deceased Rajesh availed a cash credit loan from the defendant bank, as the sole proprietor of "Sree Padma Jewellery Works" mortgaging his 1.36 Ares of land described in details in the SA.

3.2 After death of Rajesh on 23.12.2017, the defendant No.1 approached the applicants to regularize the loan but no positive response was shown by them. Consequently, the securitization proceeding was initiated after classifying the loan as NPA and the demand notice was duly served on the applicants. No step was taken to pay the outstanding. Accordingly, possession notice u/s.13(4) of the SARFAESI Act was issued on 05.01.2019 after compliance with the statutory requirements, and symbolic possession of the secured asset was taken.

3.3 The defendant bank has also approached the CJM, Thiruvananthapuram in M.C.No.542/2019 to take physical possession of the secured asset. The defendant obtained a valuation report on 24.01.2019 from the approved valuer and sale notice was issued on 26.03.2019 fixing the sale date on 30.04.2019. The sale notice was duly served on all the legal heirs of the deceased including the present applicants. After compliance of the statutory requirements, the sale was held on the day fixed and it was confirmed in favor of the auction purchaser 2nd defendant. The entire bid amount was accepted and adjusted towards the loan account. The legal heirs were asked to collect the surplus amount. The sale in respect of the subject matter property is complete. There is no illegality in any proceeding including the sale proceeding. Hence the SA, being devoid of any merit, may be dismissed.

3.4 Defendant No.2 has also filed a separate written statement similar to the contention of the defendant No.1 and claimed that the SA, being not filed within the statutory period of 45 days after completion of the sale, the claim is barred by limitation. All the statutory measures were duly complied before putting property for sale. He, being successful bidder, remitted the entire outstanding. Hence the SA, being devoid of any merit, may be dismissed both on merit and also as the claim is barred by limitation.

4. From the respective case of the applicants and defendants, the following points emerge for adjudication in this case:

(i) Whether the securitization proceedings including the sale proceeding initiated by the defendants suffer from any illegality or irregularity to interdict with the same?

(ii) Whether the applicants are entitled to get any relief in this case?

**FINDINGS:**

**Point Nos.(i) & (ii):**

5. Admittedly, Late Rajesh availed credit facility from the defendant bank by mortgaging the subject matter property of an extent of 1.36 Ares of land described in the SA. The applicants have not raised any dispute against the creation of mortgage by their

predecessor Rajesh for availing the loan. So also, the applicants have not disputed service of the demand notice and compliance of the statutory requirements in issuing the possession notice. Such measures are also not challenged by the applicants within the statutory period of 45 days from the date of accrual of cause of action and hence the claim in respect of such measure is not legally sustainable. Hence no interference is warranted against the securitization measures taken prior to taking step to put the property for sale by public auction.

6. The defendant No.1 issued a sale notice for e-auction marked annexure A7 on 26.03.2019 putting the secured assets for sale at a reserve price of ₹9,45,000/- (Rupees Nine Lakhs and Forty Five Thousand only) fixing the date of sale on 30.04.2019. The applicants have not challenged any illegality in issuing such sale notice. The 1st defendant has produced the relevant document showing obtaining valuation report on 24.01.2029 before putting the property for sale. Paper publication and affixture notice for sale are also produced.

7. In this proceeding the applicants claim that proper valuation of the secured assets was not taken and the property was sold to the 2nd defendant at a price much below the market price.

Hence the interest of the applicants is affected and the sale may be set aside. No material is placed by the applicants to rebut the valuation report dated 24.01.2019 produced by the defendant marked Annexure B3. Reserve price was fixed based upon the realizable value of the property at ₹.9,45,000/-, which has no connection with the market value of the property. There is clear difference between the market value and the reserve price. The defendant No.2 was the highest bidder for the secured asset at an offer price of ₹9,50,000/- which he tendered and deposited. The sale was confirmed in his favour. Except the valuation, no other point was raised by the defendant to interdict with the sale proceeding.

8. In a judgment of the Hon'ble Hon'ble Apex Court reported in 2024 SCC Online SC 3727 in the case of **Celir LLP vs. Sumati Prasad Bafna & others**, it is held as follows:

> "218. Any sale by auction or other public procurement methods once already confirmed or concluded ought not to be set aside or interfered with lightly except on grounds that go to the core of such sale process, such as either being collusive, fraudulent or vitiated by inadequate pricing or underbidding. Mere irregularity or deviation from a rule which does not have any fundamental procedural error does not take away the foundation of authority for such proceeding. In such cases, courts in particular should be mindful to refrain entertaining any ground for challenging an auction which either could have been taken earlier before the sale was conducted and confirmed or where no substantial injury has been caused on account of such irregularity."

In view of this ratio, only on four circumstances the confirmed sale can be set aside. Applicants have failed to establish underpricing or under valuation of the secured asset to interfere with the sale proceeding. In absence of any evidence or material from the side of the applicant, the sale proceeding cannot be held illegal.

9. Lastly, learned counsel for the defendant No.2 raised serious contention that the claim of the applicants is barred by limitation, as the SA was not filed within 45 days either from the date of sale or from the date of completion of sale. Hence the SA is barred by limitation.

10. On the other hand, the learned counsel for the applicant would contend that the Hon'ble High Court of Kerala has extended the period for filing the SA by excluding the time spent in the writ application bearing WP(C)No.12591/2019 dated 24.11.2023. It is already found that the applicants have failed to establish any illegality or irregularity in the sale proceeding. Hence this issue of limitation is not required for adjudication in this case.

11. During pendency of the SA, the defendant No.1 has taken physical possession of the secured assets as averred in paragraph 19 of the written statement. The applicants have disputed the same. Since the sale is complete, if the physical possession is not

taken, the defendant No.1 may proceed to take possession of the secured asset by due process of law in pursuance to the order of the learned Chief Judicial Magistrate, Thiruvananthapuram u/s.14 of the SARFAESI Act to hand over the same to the auction purchaser defendant No.2. In absence of proof of any illegality in the proceeding u/s.14 of SARFAESI Act, interference with same is also not warranted. The applicants are not entitled to get any relief in this case and both the points are answered against the applicants.

Hence it is ordered:-

**ORDER**

12. In view of the foregoing reasons, the SA, being devoid of any merit, is hereby dismissed but in the circumstances without costs.

*(Dictated to my steno, corrected and pronounced by me in the open Tribunal on this the 20th day of July, 2026)*

**[SOVAN KUMAR DASH]**
**PRESIDING OFFICER**

## Documents on the part of the applicant

| Annexures | Date | Particulars of documents |
|---|---|---|
| A1 | 21.01.2019 | True copy of receipt as regard remittance of ₹50,000/- in the loan account. |
| A2 | 29.03.2019 | True copy of e-auction notice published in Kerala Kaumudi daily |
| A3 | 30.04.2019 | True copy of order in W.P(C)No.12591/2019(Y) of the Hon'ble High Court of Kerala. |
| A4 | 03.09.2018 | True copy of notice under Section 13(2) of SARFAESI Act issued by 1st respondent. |
| A5 | - | True copy of possession notice pertaining to the secured asset under rule 8(1) by 1st respondent. |
| A6 | 24.01.2019 | True copy of valuation report prepared by the valuer's with respect to secured asset. |
| A7 | 26.03.2019 | A true copy of notice under Rule 6(2) of the Security Interest (Enforcement) Rules, 2002 with true copy of e-auction notice published in Indian Express daily. |
| A8 | 24.11.2023 | True copy of judgment in WP(C)No.12591/2019 of the Hon'ble High court of Kerala. |

## Documents on the part of the defendants

| Annexure | Date | Particulars of documents |
|---|---|---|
| B1 | 03.09.2018 | True copy of the Demand notice. |
| B2 | 05.01.2019 | True copy of possession notice. |

| | | |
|---|---|---|
| B3 | 24.01.2019 | True copy of valuation report. |
| B4 | 26.03.2019 | True copy of E auction notice. |
| B5 | 29.03.2019 | True copy of the New Indian Express daily. |
| B6 | 29.03.2019 | True copy of the Kerala Kaumudi daily. |

**PRESIDING OFFICER**

IN THE DEBTS RECOVERY TRIBUNAL-2,
KERALA AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated the 20th July, 2026

**SA No.701/2023**

Between

Prasanna Kumari,
D/o. Padmavati,
Elamthotathu Puthen Veedu,
Melkolla,
Dhanuvachapuram P.O.,
Thiruvananthapuram,
Pin -695 503.
& Others. …Applicants

And

Authorized Officer,
State Bank of India,
SMEC Thiruvananthapuram,
SME Centre (13202),
4th Floor,
Aikkara Arbour,
Thycad,
Thiruvananthapuram,
Pin – 695 014.
& Another. …Defendants

**F I N A L  O R D E R**