IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 13th day of July, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

I.A. No.460 of 2023 in T.A. No. 1231 of 2023

Mrs. A.H. Fathima Nasira
W/o. Mohammed Rafi
Flat B4, Rajparis lswaryam
6A Ranjith Road, Kotturpuram,
Chennai - 600 085. ….Applicant / 3rd Defendant

-Vs-

1. Union Bank of India
   Personal Banking Branch
   No 27 Arul Manai Ground Floor
   Whites Road, Chennai ….Respondent/ Applicant Bank

2. Mohamed Abdullah A.H.
   Flat 84 Rajparis lswaryam,
   6A Ranjith Road, Kotturpuram,
   Chennai - 600 085.

3. Mrs. Abdul Subhan Fairose,
   Flat 84 Rajparis lswaryam,
   6A Ranjith Road, Kotturpurarn,
   Chennai - 600 085. …Respondents/ 1st & 2nd Defendants

Counsels on record / appeared:

Counsel for Petitioner : M/s Vigneshwar Elango

Counsel for Respondent: M/s N. Venkateswaran

: - ORDER ON IA NO.460 of 2025 - :

The 3rd defendant had filed IA.No.460/2025, a petition under Section 22(2)(G) of Debts Recovery Act and RDB Act, praying to set aside the ex-parte order dated 28.04.2022 passed in OA No.119 of 2020 (since transferred to this Tribunal and re-numbered as TA No.1231 of 2023).

Brief averments of IA:

2. The Defendant No.3 filed affidavit submitting that the Application was originally filed as O.A.No.119 of 2020 before DRT - II and subsequently transferred to this Tribunal and renumbered as TA No.1231 of 2023. After complying with the required amendment, this Tribunal had directed services on me and other defendants on 04.03.2022. The Petitioner submits that he has been residing at the above-mentioned address since 2004. However, he has never received any summons or notice in respect of the above proceedings, including any summons returnable before this Tribunal.

3. It is further submitted by the petitioner that, as is evident from the proceedings in the present application, the Petitioner was set ex parte for non-appearance by order dated 28.04.2022. The Petitioner reiterates that the sole reason for his non-appearance was that he had no knowledge of the pendency of the proceedings, as no notice or summons was ever served upon him.

4. It is contended by the petitioner that after the Petitioner's loan account was classified as Non-Performing Asset (NPA), the Petitioner submitted One Time Settlement (OTS) proposal dated 17.07.2020 to the Applicant Bank, offering to settle the outstanding dues for a sum of Rs. 28,00,000/- against the then outstanding amount of approximately Rs.

36,00,000/-. However, the Applicant Bank did not accept or approve the said OTS proposal.

5. Thereafter, on 10.09.2020, the Petitioner requested the Applicant Bank to regularise the loan account. The officials of the Applicant Bank orally informed the Petitioner that the account could be regularised upon payment of a sum of Rs. 26,51,000/-. Accordingly, with a bona fide intention to resolve the issue and regularise the loan account, the Petitioner deposited the said sum of Rs. 26,51,000/- on 12.10.2020, which was prior to the institution of the present Original Application. However, for reasons best known to the Applicant Bank, the fact of the said payment was brought to the notice of this Tribunal only on 23.09.2022.

6. It is further submitted that, on 31.12.2020, a sum of Rs. 7,76,661/- was wrongly debited from the Petitioner's loan account. Aggrieved by the said irregular debit, the Petitioner lodged a complaint dated 06.03.2021 before the Reserve Bank of India, pointing out the irregularity and wrongful debit. In response, the Reserve Bank of India, vide communication dated 23.04.2021, informed the Petitioner that the Applicant Bank had admitted its lapse and stated that it was in the process of reversing the excess interest charged. However, despite the said admission and notwithstanding the Petitioner's repeated reminders, the Applicant Bank has failed to rectify the irregularity or reverse the excess amount till date.

7. The petitioner submits that once again with the intention to settle the issue, the petitioner had given an OTS offer on 22.09.2022, which was not

considered by the applicant bank. In the meantime, the Petitioner received a Possession Notice dated 13.07.2023 issued under Section 13(4) of the SARFAESI Act, based on the Demand Notice dated 31.07.2020, claiming a sum of Rs. 44,69,055/- as the outstanding dues. It was only upon receipt of the said Possession Notice that the Petitioner came to know that the Applicant Bank had initiated measures under the SARFAESI Act against his secured asset.

8. The Petitioner submits that he was under the bona fide belief that, having deposited more than 70% of the outstanding dues in the year 2020, requested the Applicant Bank to regularise the loan account, and submitted One Time Settlement proposals, the Applicant Bank would consider and resolve the matter. However, to the Petitioner's dismay, the Applicant Bank has neither regularised the account nor considered the Petitioner's OTS proposals till date, despite having received the substantial payment made by the Petitioner.

9. The petitioner contends that the alleged Demand Notice dated 31.07.2020 was never served upon him. Further, the said Demand Notice is ex facie erroneous and suffers from material irregularities, inasmuch as the demand amount of Rs. 44,69,055/- has been computed without giving credit to the payment of Rs. 26,51,000/- made by the Petitioner on 12.10.2020. The said demand also fails to account for the wrongful debit of Rs. 7,76,661/- towards excess interest, which the Applicant Bank itself admitted before the Reserve Bank of India was liable to be reversed. The

Petitioner submits that he had made substantial payments towards the outstanding loan under the bona fide belief that the Applicant Bank would regularise the loan account or, in the alternative, consider his One Time Settlement proposals for the balance amount. The Petitioner's absence before this Tribunal was neither wilful nor deliberate but was solely on account of the bona fide reasons set out hereinabove, particularly the non-service of summons and his lack of knowledge of the proceedings.

10. The Petitioner further submits that, unless the ex parte order is set aside and an opportunity is granted to contest the proceedings on merits, he will suffer irreparable loss and grave prejudice. The Applicant Bank has initiated proceedings on the basis of an erroneous demand, without duly accounting for the substantial payment made by the Petitioner and despite admitting the wrongful levy of excess interest. In these circumstances, it is prayed that the Petitioner be afforded an opportunity to place his defence and all relevant materials before this Tribunal.

Brief averments of counter:

11. The respondent bank filed counter denying the allegations stated in IA and submitted that the paragraph no.2 and 3 of the affidavit filed in support of the Petition in I.A. No.460 of 2025 in T.A.No.1231 of 2023 are totally false and incorrect and she has averred such kind of false statements knowing fully well that Suit Summons were duly received by all the defendants including the present deponent of this affidavit for both addresses on 29.04.2020 for the First hearing date 08.05.2020. It was this

applicant/deponent's Husband Mr.R.Rafi Mohamed received the suit summons on behalf of Defendants 1 to 3 and his short signature clearly found in the original Served Postal Acknowledgment cards filed as proof of service in the Affidavit of Service dated 05.12.2020. Once again Fresh Notice to the defendants informing about the Shifting of this Tribunal to New Address was ordered for the hearing date 31.03.2022 and the said fresh notice were served on all the defendants on 12.03.2022 vide original served Postal Acknowledgment cards. It was the Mrs.A.H.Fathima Nasira W/o R.Rafi Mohamed, the petitioner, who had received the suit summons on behalf of herself Defendants 1 and 2 and her short signature clearly found in the original Served Postal Acknowledgment cards filed as proof of service in the Affidavit of Service dated 29.03.2022. Therefore the Contention of the Applicant/3rd Defendant that neither suit summons served nor she was not aware of any Court proceedings are all false and misleading.

12. The 1st respondent bank further contends that even after the receipt of Fresh Notice by the defendants on 12.03.2022 for the hearing date 31.03.2022, they failed to enter appearance as such they were set exparte on 28.04.2022 and Exparte Proof affidavit with Original documents were filed and the Original documents were marked as Exhibits A1 to A59 on 23.09.2022. On 23.09.2022, the Applicant bank has filed Part Satisfaction Memo Vide SR no.8318/2022 dated 23.09.2022 reporting payment of Rs.26,51,000/- by the defendant no.1 and the same was recorded vide

proceedings dated 23.09.2022 and the case was periodically posted for Arguments.

13. In the meanwhile, the above said O.A. No.119 of 2020 was transferred to this Tribunal due to bifurcation of territorial jurisdiction and renumbered as T.A.No.1231 of 2023. The defendants after the receipt of Summons for the first Hearing date 08.05.2020, had paid a Sum of Rs.26,51,000/-on 12.10.2020 as against Outstanding dues towards Part Satisfaction of the O.A.Claim. Thereafter there were no payments at all till the date of filing of Memo for Part Satisfaction dated 23.09.2022 and marking of documents before DRT-II,Chennai. Therefore the First Respondent/applicant bank had proceeded with SARFAESI Proceedings already initiated by issuing Possession Notice dated 13.07.2023 under Section 13(4) of SARFAESI Act to the defendants and the petitioner /3rd Defendant herein has filed S.A.454 of 2023 before this Tribunal and obtained Conditional Stay order dated 12.10.2023 and in compliance of the said Conditional stay order, Defendants have paid Rs.3,12,000/- on 03.10.2023 and Rs.3,00,000/- on 20.11.2023, thus totally Rs.6,12,000/- and thereafter the defendants have been making intermittently payments according to their own whims and fancies even though they undertook to regularize the loan account.

14. It is submitted that the First Respondent/Applicant Bank filed a Second Memo for Part Satisfaction on 20.02.2025 vide Sr. No.1438/2025 in T.A. No.1231 of 2023 (Old O.A. No.119 of 2020), recording part payments

aggregating to Rs.28,12,087/- received between 04.10.2023 and 16.12.2024 towards the O.A. claim. After giving credit to the said payments, the Applicant Bank sought a decree for the outstanding balance of Rs.12,62,949.58 as on 19.02.2025, together with subsequent interest and costs.

15. The Respondent/Applicant Bank, while denying the allegations contained in paragraphs 4 to 11 of the affidavit filed in support of I.A. No.460 of 2025 in T.A. No.1231 of 2023 as false and incorrect, has briefly narrated the facts and background of the case in paragraphs 8(a) to 8(q) of the counter. The same are not reproduced herein for the sake of brevity, as the present I.A. has been filed by the 3rd Defendant seeking to set aside the ex parte order dated 24.08.2022.

16. It is submitted that the allegations in paragraph 6 of the affidavit are false and are denied in toto. The allegation that the debit entry of Rs.7,76,661/- was wrongly made and that the First Respondent/Applicant Bank admitted the same before the RBI is specifically denied, and the Petitioner/3rd Defendant is put to strict proof thereof. The said debit entry was correctly effected on 31.12.2020 due to accounting adjustments arising out of the merger of the erstwhile Corporation Bank with Union Bank of India with effect from 01.04.2020, during the migration of accounts to the new banking system, as confirmed by the Head Office. At no point did the Bank admit any lapse as alleged.

17. It is further submitted that the Defendants had no bona fide or justifiable reason for their failure to enter appearance despite due service of summons/notices. Only after the issuance of the Second Possession Notice dated 13.07.2023 did the 3rd Defendant file the present I.A. No.460 of 2025 seeking to set aside the ex parte order dated 28.04.2022. In the absence of any sufficient cause, the respondent bank prays for dismissal of IA with costs.

Heard the submissions of counsel for both sides on IA and perused the records.

18. The bank has filed OA for recovery a sum of Rs.42,06,026/- from the Defendants 1 to 3 jointly and severally along with interest and cost till the date of realization. After filling OA on 07.12.2019, the Tribunal ordered summons to Defendants 1 to 3. The bank has taken summons as directed by the Tribunal and summons sent to Defendant No.1 to 3. Due to Pandemic Covid-19, in view of Lock down announced by Central and State Governments, the case was adjourned by notification from 08.05.2020 to 16.07.2020, 24.09.2020, 07.10.2020, 23.02.2021, 04.05.2021, 28.06.2021, 19.08.2021 and to 21.10.2021.

19. On 21.10.2021, the applicant bank sought time for filing necessary memo for amendment in view of amalgamation of Corporation Bank with Union Bank of India, which was accordingly allowed vide proceedings dated 07.01.2022 and applicant bank was directed to carry out amendment and file amended OA. In the meanwhile, as the premises of the Tribunal was

shifted, fresh notice was ordered to the defendants on 14.02.2022. Accordingly, applicant bank had taken fresh notice to the defendants and filed AOS, the fresh notice to defendants were duly served. When the case was taken up on 28.04.2022, as there was no representation for the defendants, they were placed ex-parte on 28.04.2022.

20. The records of the case clearly reflects that subsequent to setting the defendants ex-parte, the applicant bank had filed ex-parte proof affidavit and documents, which was taken on record and marked as Exhibits A-1 to A-59. The applicant bank reported part satisfaction of payment of Rs.26,51,000/-, which was accordingly recorded vide proceedings dated 23.09.2022.

21. Thereafter, the case was transferred to this Tribunal at the stage of arguments due to bifurcation of jurisdiction and re-numbered as TA No.1231/2023. During the pendency of OA, the 3rd defendant filed IA No.459/25 for condonation of delay of 510 days in re-presenting the IA filed to set aside the ex-parte order dated 28.04.2022. As respondent bank had reported 'no objection' for this IA, the same was accordingly allowed on 14.07.2025.

22. It is the matter of fact that the affidavit filed along with IA.460/2025 does not support the case as the 3rd defendant have not justified the reason or cause in not filing the WS on time, despite receipt of summons. On the other hand, the applicant bank has taken summons as directed by this

Tribunal following due procedures in taking out summons/ service of summons as prescribed under the law.

23. With regard to the contention of the petitioner / 3rd defendant that she was not served with notice / summons, applicant bank had produced AOS vide Dy. No.849/2020 dated 05.12.2020 along with Acknowledgment cards evidencing service of summons to 3rd defendant on 29.04.2020. Further, in view of shifting of office to the present premises, the Tribunal had once again ordered fresh notice to all defendants and accordingly, the applicant bank had issued notice to defendants, which was also duly served as evidenced from AOS vide Dy. No.2348 of 2022 dated 30.03.2022. Hence, the contention of the Petitioner/3rd Defendant that she was not served with summons/notice is devoid of merit and liable to be rejected.

24. The contention with regard to OTS and regularisation of loan account and the payment of Rs.26,51,000/- made by the Petitioner, the applicant bank had admitted the payment and has been duly given credit. Such part payment does not amount to regularisation of the loan account nor does it affect the maintainability of the Original Application. The Applicant Bank has accounted for the payment by filing the Memo(s) for Part Satisfaction and sought recovery only of the balance dues. Hence, this contention does not furnish a valid ground for setting aside the ex parte order.

25. The contention of the Petitioner/3rd Defendant that there was a wrongful debit of Rs.7,76,661/- in the loan account and that the Applicant Bank admitted such lapse before the RBI is not substantiated by any cogent

evidence. The Applicant Bank has explained that the said debit entry was made on 31.12.2020 due to accounting adjustments consequent upon the merger of the erstwhile Corporation Bank with Union Bank of India and migration of accounts to the new system. The Petitioner has not produced any material to establish that the said entry was erroneous or that the Applicant Bank admitted any liability in this regard. Therefore, the said contention does not warrant interference with the ex parte order and is accordingly rejected.

26. The contention of the Petitioner/3rd Defendant regarding non-service of the Demand Notice dated 31.07.2020 and the correctness of the amount mentioned therein pertains to the proceedings initiated under the SARFAESI Act and is a matter to be adjudicated in S.A. No.454 of 2023. The same cannot be re-agitated in the present proceedings, which are confined to the recovery of the outstanding dues in the Original Application and the issue of setting aside the ex parte order. Hence, the said contention is not relevant for the adjudication of the present I.A. and is accordingly rejected.

27. It is the matter of fact that the affidavit filed along with IA does not support the case of the petitioner, as the petitioner has not justified the reason or cause in not filing the WS on time, despite receipt of summons ordered by this Tribunal twice. On the other hand, the applicant bank has taken summons as directed by this Tribunal following due procedures in taking out summons/ service of summons as prescribed under the law.

28. The Tribunal reminds itself that the RDDB Act is a special enactment, enacted with the purpose of providing expeditious adjudication and recovery of debts due to Banks and Financial Institutions. Time is the essence in quick disposal of Original Applications to avoid locking up of huge amount of public money in litigation which prevents proper utilization and recycling of the funds for the economic development of the country.

29. For better understanding S.19[5] is reproduced reads as under:

> *"The defendant shall within a period of thirty days from the date of service of summons, present a written statement of his defence including claim for set-off under sub-section (6) or a counter-claim under sub- section (8), if any, and such written statement shall be accompanied with original documents or true copies thereof with the leave of the Tribunal, relied on by the defendant in his defence:*
>
> *Provided that where the defendant fails to file the written statement within the said period of thirty days, the Presiding Officer may, in exceptional cases and in special circumstances to be recorded in writing, extend the said period by such further period not exceeding fifteen days to file the written statement of his defence"*

30. Thus, a reading of S.19(5) clearly shows that the written statement/ counter-claim is required to be filed mandatorily within 30 days from the date of service of summons. Another period of 15 days maximum can be granted, only in exceptional cases and in special circumstances, which are to be found and recorded in writing by the Presiding Officer while granting extension by up to 15 days. These strict timelines of 30 days, and 15 days as mandated in section 19(5) are in consonance with the objective sought to be achieved by the Recovery of Debts and Bankruptcy Act, 1993.

31. In the recent judgment of Hon'ble DRAT, Delhi in the matter of ***Mahua Co-operative Cold Storage Ltd. v. National Co operative Development Corporation - Misc. Appeal No. 175/2026 (Arising out of O.A. No. 650/2023) - reported in [(2026) ibclaw.in 189 DRAT]*** has held that

> *"Where Section 19(5)(i) of the RDB Act limits filing of written statement to 30 days extendable by not more than 15 days in exceptional cases, the Tribunal has no jurisdiction to accept a written statement filed beyond 45 days and refusal to condone 29 days' delay beyond that period is liable to be upheld."*

32. The strict timelines for filing written statement and counter claim is that DRT is adjudicating on disputes involving huge amounts of public money, and if any delay is permitted in the adjudication of those disputes, the same will result in locking up of huge amounts of public money which further would prevent utilization and recycling of those funds for the development of the country.

33. In the present matter, the Defendants, despite due service of summons, have failed to enter appearance and have not chosen to file vakalath or contest the proceedings within the stipulated time. The records disclose that sufficient opportunity was afforded to the Defendants to appear before this Tribunal. In the absence of any appearance or representation on their behalf, the case was proceeded with in accordance with law. Hence, the plea of the Petitioner/3rd Defendant cannot be

accepted in the absence of sufficient cause explaining the failure to appear.

34. For the foregoing reasons the IA filed to set aside the ex-parte order dated 24.08.2022 cannot be considered and the same stands rejected. Accordingly, IA.No.460/2025 stands dismissed. There shall be no order as to costs.

Sd/-

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

(Dictated to PS, transcribed by her, corrected, signed and pronounced by me on this the 13th day of July, 2026)