Fair Order

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI

DATED THIS 14th DAY OF JULY, 2026

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

SA No. 220/2019

G. Muthusamy
S/o. Gopal Gounder
No. B3/293, F. Kailasapuram,
Thiruverumbur, Trichy – 620 014. .... Applicant

Vs

1. The Authorized Officer,
   Indian Bank ARMB, Madurai,
   100/101, East Avani Moola Street,
   Madurai – 625 001. .... 1st Defendant Bank

2. Mrs. A. Manimegalai,
   W/o. Mr. Ayyachamy,

3. Mr. K. Ayyachamy,
   S/o. Karuthagounder,

4. Mrs. K. Mohana Sundari,
   W/o. A. Karthik,

   D - 2 to 4 are residing at,
   Old No. 63, New No. 9,
   3rd Cross Street, Raja Colony,
   Collector Office Road, Trichy Cantonment,
   Trichy – 620 001.

5. Mrs. K. Rajammal,
   W/o. Mr. Kaliyaperumal,
   36A/3, Third Cross, Kalyana Sundaram Nagar,
   Karumandapam,
   Tirchy – 620 001. .... 2 to 5 Auction Purchasers / Defendants

6. Mr. A. Karthik,
S/o. Mr. K. Appaswamy,
New Door No. 9, Old No. 63,
3rd Cross Street, Raja Colony,
Collector Office Road,
Cantonment, Trichy – 620 001. .... Defendant

Appearance of Advocates:
Mr. M. Arun Murugan ---- Counsel for the Applicant
Mr. B. Rajesh Saravanan ---- Counsel for the 1st Defendant Bank
Mr. K. Esakki ---- Counsel for the 2nd to 6th Defendants

This SARFAESI Application was heard in the presence of Counsels for the Applicant, the Defendant Bank and the Auction Purchasers fixed for passing final order before me and upon hearing the arguments of both the Counsels and having stood over for consideration till this day, this Tribunal delivered the following:

O R D E R

1. This Application has been filed under Section 17 of the SARFAESI Act, 2002 by the Applicant praying that this Hon'ble Tribunal may be pleased to pass an order to set aside the Sale Notice dated 22.02.2019, issued by the Defendant under the SARFAESI Act, 2002.

- To set aside the Sale Certificate dated 04.09.2024, registered as Doc. No. 8634/2024 in favour of Respondents 2 to 5, being illegal and void and vitiated by fraud, suppression of material facts, and non-compliance with the mandatory provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002.
- To set aside the Gift Deed executed by Mrs. K. Rajammal in favour of Mrs. K. Mohana Sundari vide Doc. No. 7468 of 2025 dated 28.07.2025.
- To set aside the Gift Deed executed by Mr. K. Ayyachamy, Mrs. A. Manimegalai and Mrs. K. Mohana Sundari in favour of Mr. A. Karthik vide Doc. No. 7602/2025 dated 31.07.2025.

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

a) The Counsel for the Applicant submitted, that the applicant is a Guarantor for the loan availed by the applicant's wife, M. Shanthi. She has been doing fish aquarium business and she approached the defendant for availing certain credit facility. The applicant agreed to stand as Guarantor for the credit facility to be sanctioned to the said M.Shanthi. The secured assets more fully described in the description of properties belong to the applicant and M. Shanthi. After perusing all the records of the borrower and the applicant, the defendant sanctioned a sum of Rs.15,00,000/- towards Agri MTL to M. Shanthi in the year 2009. The said borrower has been servicing the interest very promptly and regularly and has so far paid a sum of Rs.10,00,000/- towards the loan amount.

b) It is submitted that, facts being so, all of a sudden, the defendant issued a Demand Notice dated 15.11.2018 under Section 13(2) of the SARFAESI Act, thereby calling upon the borrower to pay the entire amount specified in the said notice within 60 days from the date of receipt of the said notice. Immediately, the applicant rushed to the defendant and sought an explanation with regard to the said Demand Notice, but the defendant was not in a position to explain as to why the said Demand Notice was issued to the applicant.

c) It is further submitted that, with an intention to exert pressure on the applicant, the defendant issued a Possession Notice dated 04.02.2019 by and under which the defendant stated that the borrower, having failed to repay the amount mentioned in the Demand Notice within the stipulated period from the date of receipt of the said notice, the defendant has taken symbolic possession of the property described in the schedule by invoking the powers conferred under Section 13(4) of the SARFAESI Act.

d) It is further submitted that, the symbolic possession of the property described in the schedule allegedly taken by the defendant is illegal and a blatant violation of the provisions under the SARFAESI Act and the Rules framed thereunder, and the said action, including the Possession Notice dated 04.02.2019, is liable to be set aside. The defendant has not affixed the Possession Notice on the conspicuous part of the property, which is a mandatory provision of the Rules framed under the SARFAESI Act. The defendant has also failed to publish the said Possession Notice in two newspapers having wide circulation in the area where the property is situated, and it is a mandatory provision under the SARFAESI Act and the Rules framed thereunder.

e) It is further submitted that, the Possession Notice dated 04.02.2019 issued by the defendant is untenable in law and unsustainable, since the mode and procedure for taking possession of the property as prescribed in Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 has not been followed by the defendant. The applicant further submits that a plethora of judgments delivered by the Apex Court and the various High Courts make it abundantly clear that while invoking the statutory provisions of the SARFAESI Act, the statutory authority has to invoke the same only in the form and manner prescribed in the Act and not invoke the provisions by violating it. In brief, the defendant has not even followed the mandatory procedure of affixing the Possession Notice on the conspicuous part of the properties as prescribed in the Act. The applicant further submitted that as per the statute, the applicant has a right to file an appeal challenging the Possession Notice within 45 days from the date of the Possession Notice dated 04.02.2019. But before the completion of 45 days, the defendant hurriedly issued the Sale Notice dated 22.02.2019, which is a blatant violation of the SARFAESI Act. It is further submitted that a perusal of the description of the properties will itself reveal that they are agricultural lands. Hence, the defendant rightly filed O.A. No. 846/2014 before this Honorable Tribunal under the RDDBFI Act, and the same is still pending adjudication. In order to exert pressure on the applicant, the defendant initiated action under the SARFAESI Act against agricultural lands which are exempted under Sec. 31(i) of the SARFAESI Act.

f) It is further submitted that, based on the illegal and unlawful Possession Notice dated 04.02.2019, the defendant issued Auction-cum-Sale Notice dated 22.02.2019 for sale of the properties described in the schedule on 29.03.2019 at 11.30 a.m. The applicant submits that as per the Sale Notice dated 22.02.2019, the defendant claimed a sum of Rs.28,05,892/- is due from the applicant as on 15.02.2019. The applicant submits that Rule 8(5) of the Security Interest (Enforcement) Rules, 2002 specifies that a notice of 30 days shall be given to the borrower expressing the intention of the defendant to bring the property for sale. This gives an opportunity to the borrower and Guarantor to redeem the property before publishing the auction notice. However, the defendant, without giving 30 days' time, has gone ahead to publish the auction notice. Therefore, the entire object of the SARFAESI Act is defeated by the defendant.

g) It is further submitted that, the action of the defendant in trying to bring the properties worth about Rs.1.50 Crores to recover a debt of Rs.28,05,892/- is arbitrary, illegal, mala fide, and therefore cannot be resorted to by the defendant. The said action will be detrimental to the interest of the borrower and will also defeat the object and purpose of the Act.

h) It is further submitted that, Due to poor rainfall for the past four years, labour problem, and heavy competition in the field, the applicant's wife incurred heavy loss and so the applicant's wife could not repay the loan amount. The applicant further submits that all the measures initiated by the defendant suffer from several severe irregularities and illegalities and are liable to be set aside for the reasons aforementioned. In brief, the defendant has failed to observe the procedures while issuing notices under the SARFAESI Act. The defendant has acted in an arbitrary manner. Hence, this SARFAESI Application is preferred on the following, among other, grounds.

- The action of the defendant is against the principles of natural justice.

- The action of the defendant is arbitrary in nature and they have not followed the provisions of the SARFAESI Act and the Rules framed thereunder. The act of the defendant is illegal and therefore the alleged Possession Notice is liable to be set aside as illegal.

- The defendant has not furnished the statement of account in order to enable the appellant to satisfy the liability due to the defendant.

- The defendant has not given proper entries of the various payments made by the appellant. The interest charged by the defendant is not in accordance with the RBI Guidelines.

- The defendant has not made paper publication of the notices issued under Sections 13(2), 13(4), and the Sale Notice of the SARFAESI Act.

- The classification of the appellant's account as NPA itself is invalid, incorrect, and improper.

- The defendant has failed to make a proper valuation of the secured asset before issuing the Sale Notice dated 22.02.2019.

- The reserve price fixed for the secured asset is very low compared to the prevailing market price.

- The defendant failed to affix the Section 13(4) Notice and Sale Notice on the outer door of the secured assets as contemplated under the SARFAESI Act and the Rules.

- The defendant has failed to give the correct description of the properties of the secured asset in the Section 13(4) Notice and the Sale Notice dated 22.02.2019.

- The defendant has failed to give the correct outstanding amount in the Sale Notice dated 22.02.2019.

- The defendant gave a combined reserve price for the secured assets instead of giving a separate reserve price for each secured asset, which is a blatant violation of the SARFAESI Act and the Rules.

- The entire secured assets are agricultural lands and are exempted under Section 31(i) of the SARFAESI Act, 2002.

- The defendant has issued the Sale Notice dated 22.02.2019 before completion of 45 days from the date of the Possession Notice, which is a blatant violation of the SARFAESI Act and the Rules.

- The entire action of the respondent bank is without jurisdiction, inasmuch as the secured asset is agricultural land, which is expressly exempted under Section 31(i) of the SARFAESI Act, 2002.

The agricultural nature of the property is evident from the bank's own records, including Patta, revenue classification (Punjai land), irrigation rights, and the legal opinion obtained by the bank itself.

- The respondent bank has illegally invoked SARFAESI proceedings despite the fact that the loan in question is an Agricultural Medium Term Loan (MTL), which is further substantiated by the bank's letter dated 18.03.2019 issued under the "Agricultural Debt Waiver Scheme," thereby admitting the agricultural nature of the loan and security.

- The impugned sale is vitiated due to gross violation of the mandatory procedure prescribed under the Security Interest (Enforcement) Rules, 2002, particularly Rules 8 and 9, rendering the entire sale process null and void.

- The statutory requirement of 30 days' clear notice under Rule 9(1) has not been complied with. The Sale Notice was received by the petitioner on 26.02.2019, whereas the auction was conducted on 28.03.2019, thereby depriving the petitioner and guarantor of their valuable right of redemption.

- The respondent bank has failed to comply with Rule 8(1) and Rule 8(6), as the Sale Notice was not affixed on the conspicuous part of the property and was not published in widely circulated leading newspapers, thereby vitiating the sale.

- The auction purchaser has not complied with the mandatory payment timelines prescribed under Rule 9(4), and hence the sale is liable to be set aside on this ground alone.

- The valuation of the property is arbitrary, fraudulent, and vitiated by mala fides. The bank's own valuation report dated 04.02.2019 fixes the guideline value at Rs.5,00,000 per acre and total value at Rs.1,04,30,000 for 20.86 acres, while also admitting a market value of Rs.3,25,000 to Rs.3,50,000 per acre. However, the bank has deliberately undervalued the property at Rs.1,60,000 per acre and sold it for Rs.30,00,000, indicating collusion between bank officials and auction purchasers.

- The fixation of reserve price at Rs.30 lakhs, when the alleged outstanding was only about Rs.15 lakhs, is arbitrary, disproportionate, and indicative of non-application of mind.

- The valuation report itself shows that the property is situated near the Kaveri River, classified as agricultural land with irrigation facilities and groundwater potential. However, the valuer has deliberately ignored crucial documents such as agricultural tax receipts, thereby suppressing material facts.

- It wrongly states that the sale was conducted under Section 14 of the SARFAESI Act; it incorrectly mentions the date of sale as 20.03.2019 instead of 28.03.2019; it falsely records that the entire sale consideration was paid on 20.03.2019.

- The Sale Certificate falsely declares "Nil encumbrances," suppressing the pendency of the present S.A., thereby violating the doctrine of lis pendens under Section 52 of the Transfer of Property Act.

- The respondent bank has failed to include and account for hypothecated movable assets, including the electric motor used for irrigation, and has not brought the same for sale, thereby rendering the enforcement incomplete and illegal.

- The subsequent alienations made by the auction purchasers during the pendency of the S.A., including transfers by way of registered Gift

Deeds, are hit by the doctrine of *lis pendens* and are not binding on the petitioner. These actions are intended to defeat the pending proceedings and constitute abuse of process of law.

- The respondent bank has acted in clear violation of Rule 8(5) of the Security Interest (Enforcement) Rules, 2002, inasmuch as no proper or independent valuation by an approved valuer has been conducted in a fair and transparent manner. The valuation relied upon is arbitrary and manipulated, rendering the fixation of reserve price illegal.

In the amended SA, the counsel for the applicant further stated that,

i) During the pendency of the above proceedings, it has now come to light that the respondent bank has proceeded with the auction sale and has also issued and registered a Sale Certificate in favour of the auction purchasers. Upon gaining knowledge of the same, the petitioner filed an impleading petition, which was allowed by this Hon'ble Tribunal, and the auction purchasers were brought on record.

j) It is further submitted that, taking undue advantage of the pendency of the proceedings, the auction purchasers have further alienated the secured property in favour of third parties by way of registered Gift Deeds during the subsistence of the present S.A. proceedings. These subsequent transfers have been effected with full knowledge of the pending litigation and are clearly intended to defeat the rights of the petitioner and frustrate the adjudication before this Hon'ble Tribunal. The said alienations are hit by the doctrine of lis pendens under Section 52 of the Transfer of Property Act, 1882, and are not binding on the petitioner.

k) It is further submitted that, the secured asset in question is agricultural land, as clearly evidenced from the documents filed by the respondent bank itself, including the revenue records, Patta entries, and valuation report, wherein the land is classified as Punjai land. The records further describe the property as "Dry – Well Irrigation – Type One" with groundwater potential, and even the bank's panel advocate, in the legal opinion, has acknowledged irrigation rights and agricultural classification in Killiyur Village. Hence, the property squarely falls within the exemption under Section 31(i) of the SARFAESI Act, and the entire proceedings are without jurisdiction.

l) It is further submitted that, the Authorized Officer of the bank had issued a letter dated 18.03.2019 under the subject "Agricultural Debt Waiver Scheme," which clearly establishes that the loan itself is an agricultural loan. The loan is an Agricultural Medium Term Loan (MTL), and the secured assets include a fish farm and hypothecated electric motor. However, the bank has failed to account for the hypothecated movable assets, and the whereabouts of the electric motor are unknown. The said assets were not brought to sale, rendering the entire process incomplete and illegal.

m) It is further submitted that, the bank has grossly violated the mandatory procedure prescribed under the Security Interest (Enforcement) Rules, 2002. The Possession Notice dated 13.02.2019 was published in the newspaper on 07.02.2019, even prior to its issuance, which clearly shows that the publication was antedated and not in accordance with Rule 8(2).

n) It is further submitted that, the Sale Notice was received by the petitioner only on 26.02.2019, whereas the auction was conducted on 28.03.2019. Thus, there was no clear 30 days' notice provided to the petitioner or the guarantor as mandated under Rule 9(1), thereby vitiating the sale proceedings.

o) It is further submitted that, the Sale Notice was not affixed on a conspicuous part of the property and was not published in widely circulated leading newspapers as required under Rule 8(1) and Rule 8(6). Further, the auction purchaser has not complied with the payment timeline prescribed under Rule 9(4), rendering the sale invalid.

p) It is further submitted that, the valuation and fixation of reserve price are arbitrary, illegal, and vitiated by fraud. As per the bank's own valuation report dated 04.02.2019, the guideline value of the property measuring 20.86 acres is Rs.5,00,000 per acre, totalling Rs.1,04,30,000. The valuer has also admitted that the market value ranges between Rs.3,25,000 and Rs.3,50,000 per acre. Despite this, the bank has fixed the value at a shockingly low rate of Rs.1,60,000 per acre and sold the property for Rs.30,00,000, which clearly indicates deliberate undervaluation in collusion with the auction purchasers.

q) It is further submitted that, the valuation report itself shows that the property is situated near the Kaveri River, and the sketch and records clearly indicate agricultural usage. However, the valuer has deliberately ignored agricultural tax receipts and suppressed material facts to misclassify the property.

r) It is further submitted that, the Sale Certificate issued by the bank is vitiated by material irregularities and false statements. It wrongly states that the property was sold under Section 14 of the SARFAESI Act, though no such proceedings were initiated. It also incorrectly mentions that the sale was conducted on 20.03.2019, whereas the

Sale Notice clearly fixed the auction on 28.03.2019. Further, it falsely records that the full consideration was paid on 20.03.2019.

s) It is further submitted that, the Sale Certificate further states that the encumbrances are "Nil," suppressing the fact that the property is the subject matter of the present S.A., thereby violating the doctrine of lis pendens under Section 52 of the Transfer of Property Act.

t) It is further submitted that, the reserve price fixed at Rs.30 lakhs is arbitrary and disproportionate, particularly when the alleged outstanding dues were only around Rs.15 lakhs, showing clear non-application of mind and mala fide intention.

SCHEDULE OF PROPERTY

Item No.1

Tiruchirappalli District, Tiruchirappalli Taluk, Trichy Registration District, Thiruverumbur Sub-Registration District, situated in No. 62 of Killiyur Village,

SI.NO	Survey No.	Hectares	Classification	Acres
1.	199/3	0.40.0	Dry Land	0.99
2.	199/2	0.40.5	Dry Land	1.00
3.	202/1	0.61.0	Dry Land	1.50
4.	202/9	0.20.0	Dry Land	0.49
5.	202/11	0.20.0	Dry Land	0.50
6.	204/1	0.57.5	Dry Land	1.42
7.	204/9	0.60.5	Dry Land	1.50
8.	204/14	0.40.5	Dry Land	1.00
9.	205/9 (comprised in S.F.No.205/2)	0.18.5	Dry Land	0.45

10.	205/20 (comprised in S.F.No.205/2)	0.39.5	Dry Land	0.97
11.	206/4	0.20.0	Dry Land	0.49
	Total	**4.18.0**		**10.32**

Item No.2

Tiruchirappalli District, Tiruchirappalli Taluk, Trichy Registration District, Thiruverumbur Sub-Registration District, situated in No. 62 of Killiyur Village,

SI.NO	Survey No.	Hectares	Classification	Acres
1.	198/5	0.40.0	Dry Land	1.00
2.	199/4	0.28.5	Dry Land	0.70
3.	199/5	0.24.5	Dry Land	0.61
4.	199/13	0.40.0	Dry Land	1.00
5.	201/1	0.32.0	Dry Land	0.79
6.	201/2	0.60.5	Dry Land	1.49
7.	201/3	0.40.5	Dry Land	1.00
8.	201/4	0.28.5	Dry Land	0.70
9.	201/5	0.01.5	Dry Land	0.04
10.	201/8	0.26.0	Dry Land	0.64
11.	201/9	0.24.5	Dry Land	0.61
	201/10	0.79.5	Dry Land	1.96
	Total	**4.27.0**		**10.54**

The Applicant has submitted the following List of documents in support of his claim in the SA :-

S.No.	Date	Description of Documents
1.	22.02.2019	Sale Notice

Additional typed set filed by the Applicant on 03.07.2025

S.No.	Date	Description of Documents
1.	04.09.2024	Sale Certificate vide Doc. No 8634/2024

1st Additional typed set filed by the Applicant on 03.10.2025

S.No.	Date	Description of Documents
1.	****	Encumbrance Certificate
2.	28.07.2025	Gift Deed / Settlement Deed (Doc.No.7468/2025)
3.	31.07.2025	Gift Deed / Settlement Deed (Doc.No.7602/2025)

Additional typed set filed by the Applicant on 04.06.2026

S.No.	Date	Description of Documents
1.	****	Photographs showing Agricultural Activity
2.	07.05.2026	Valuation Certificate given by Sub Registrar

3. On the other hand, the Counsel for the 1st Defendant Bank appeared before this Tribunal and filed a Vakalatnama, Reply Statement, and Typed Set, in which he has submitted that the averments made in the application are wrong. As the applicant did not pay the loan amount in proper manner, these loan accounts had been classified as NPA on 31.03.2013, and the applicant was duly informed. Even thereafter, the applicant did not repay the loan amount in proper manner. The respondents did not come forward to regularize their loan accounts. The Respondent Bank had issued a Demand Notice dated 15.11.2018 under Sec. 13(2) of the SARFAESI Act, demanding the applicant to pay the loan amounts within 60 days. The applicant received the same on 26.11.2018.

a) It is submitted that, the applicant did not pay the loan amount as demanded in the Demand Notice to the Respondent Bank. So, without alternative, after 60 days, this Respondent had taken possession of the secured property by way of issuing a Possession Notice under Sec. 13(4) of the SARFAESI Act dated 04.02.2019. This

Possession Notice was served on the applicant on 13.02.2019. This Respondent had also affixed the Possession Notice in a conspicuous place of the secured property.

b) It is further submitted that, the Respondent Bank also caused the Possession Notice to be published in the English newspaper "The New Indian Express" on 07.02.2019 and in the Tamil newspaper "Daily Thanthi" on 07.02.2019, which have sufficient circulation in the locality.

c) It is further submitted that, the Respondent Bank had obtained valuation of the secured property from an approved valuer on 05.02.2019 and fixed the value of the secured property. Then, the Respondent Bank issued the Auction Sale Notice dated 22.02.2019 fixing the auction sale on 28.03.2019 at 11.30 A.M.

d) It is further submitted that, the Sale Notice was also published in the English newspaper "The Hindu" on 23.02.2019 and in the Tamil newspaper "Daily Thanthi" on 23.02.2019, which have sufficient circulation in the locality. The Sale Notice was received by the applicant on 26.02.2019. Thus, the Respondent had given a clear 30 days' notice before the auction sale. As scheduled, the Defendant Bank went on with the auction of the secured property through public auction mode on 28.03.2019 between 11.30 A.M. The reserve price fixed was Rs.30.00 lakhs and the EMD was Rs.3.00 lakhs.

e) It is further submitted that, the EMD amount of Rs.3,00,000/- was deposited on 26.03.2019. On the date of sale, i.e., 28.03.2019, the auction purchasers had deposited Rs.2,00,000/- and Rs.2,52,500/- totalling Rs.4,52,500/-, i.e., 25% of the sale price excluding the already deposited Earnest Money of Rs.3,00,000/-. The remaining balance, i.e., 75% of the purchase price of Rs.10,00,000/- and

Rs.10,00,000/-, totalling Rs.20.00 lakhs, was credited on 09.04.2019, and Rs.2,57,500/- was credited on 10.04.2019, respectively, by the auction purchasers. The Breakup as follows - Rs 30,10,000/-

SI.No	Date	Amount in Rs.	Mode of Payment
1.	26.03.2019	3,00,000/-	RTGS
2.	28.03.2019	2,00,000/-	RTGS
3.	28.03.2019	2,52,500/-	RTGS
4.	09.04.2019	10,00,000/-	RTGS
5.	09.04.2019	10,00,000/-	RTGS
6.	10.04.2019	2,57,500/-	RTGS
	Total	**30,10,000/-**	

f) It is further submitted that, in the meantime, the applicant had approached this Hon'ble Tribunal. This Hon'ble Tribunal had passed a conditional stay order on 28.03.2019 in I.A. No. 737 of 2019 in S.A. No. 220/2019. The applicant failed to comply with the condition imposed by this Hon'ble Tribunal and, on 28.05.2019, the order in I.A. No. 737 of 2019 stood automatically vacated and I.A. No. 737/2019 stood dismissed. As this defendant had confirmed the above sale and issued the Sale Certificate in favour of the successful bidders as named above on 30.05.2019.

g) It is further submitted that, out of the total sale proceeds of Rs.30,10,000/- from the auction sale, Rs.19,89,485/- had been credited to Loan Account A/c No. 708763695, which was closed on 31.05.2019. A sum of Rs.1,25,725.20 towards Memorandum of Legal Expenses had been recovered on 31.05.2019. For future charges, Rs.50,000/- has been kept in the Bank Sundry Deposit Account on 31.05.2019. The excess sale amount of Rs.8,44,789.80 has to be returned to the applicant. Informing the above fact, this defendant sent a Registered Letter dated 04.02.2020 to the applicant, but the same was returned with the reason "No Such Addressee."

h) It is further submitted that, the sale of the secured property by way of e-auction to the above persons is bona fide, and this sale was held in accordance with law. The secured properties are "Dry Land" and come within the purview of the SARFAESI Act and do not attract the provisions under Sec. 31(i) of the SARFAESI Act, 2002. Thus, the Defendant Bank had followed all the procedures as contemplated under the SARFAESI Act, and the allegations of the applicant are wrong and are made with mala fide intention and are patently frivolous to drag on the matter and to prevent the respondents from taking further steps under the SARFAESI Act.

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

Typed set of Papers filed by the 1st Defendant Bank on 24.06.2025

SI.No.	Date	Particulars
1.	15.11.2018	13 (2) Demand Notice
2.	----	Demand Notice- acknowledgement cards duly acknowledged by borrowers/guarantors
3.	04.02.2019	13 (4) Possession Notice with AD cards
4.	----	Possession Notice - acknowledgement cards duly acknowledged by borrowers/guarantors
5.	----	Proof of Affixture of Possession Notice
6.	07.02.2019	Possession notice Paper Publication (Tamil & English)
7.	22.02.2019	Sale notice
8.	----	Sale notice - Acknowledgement cards duly acknowledged by borrowers/guarantors
9.	----	Proof of Affixture of sale Notice
10.	23.02.2019	Sale notice -Paper Publication (Tamil & English)
11.	04.02.2019	Valuation Report
12.	30.05.2019	Certificate of Sale

4. The Counsel for the 2 to 6th Defendant appeared before this Tribunal and filed Vakalat, Reply Statement in which it is submitted that the above S.A. has been filed by the borrower challenging the Sale Notice dated 22.02.2019, and now the Defendants 2 to 6 were impleaded as parties to the above proceedings through I.A. Nos. 2459 and 4003 of 2025. But there was no clear explanation from the applicant for filing the above-mentioned petitions with such a huge delay, that too after the lapse of several years from the date of sale, i.e., 28.03.2019. Further, the sale was confirmed and the Sale Certificate was issued in favour of the Defendants 2 to 5 on 30.05.2019 in pursuance of the sale conducted as per the Sale Notice dated 22.02.2019. Though the applicant had full knowledge about the sale which was held in the year 2019, he has now invented some baseless reasons for filing the present petitions, namely I.A. Nos. 3216/2025, 4004/2025, and 4005/2025, seeking consequential reliefs to amend the prayer and pleadings and also seeking injunction, which are not at all permissible, and the time-barred reliefs are not at all maintainable under law. The applicant cannot take the law into his own hands.

a) It is further submitted that, once the title is transferred to the Defendants 2 to 5 through a valid instrument executed by the 1st Defendant, they can deal with the property as per their rights. Further, it is up to the title holders to decide to execute any instrument for their convenience. Accordingly, the Defendants 2 to 5 settled the subject property in favour of the 6th Defendant. The Defendants 2 to 6 are family members, and there was no third-party alienation as alleged by the applicant. Therefore, the doctrine of lis pendens would not be applicable in the case on hand. A concluded sale cannot be set aside on the mere allegations and averments of the applicant. When the defaulter has lost his right of redemption over the subject property, he cannot seek an injunction against the defendants. The applicant's action shows that it is only to protract the matter by gaining time, with an intention to disturb the rights of the auction purchasers and their peaceful possession and enjoyment of the property.

b) It is further submitted that, the dictum of the Hon'ble Apex Court says that once the secured property is put as security by way of mortgage, etc., meaning thereby the same was not treated as agricultural land, such properties cannot be said to be exempted from the provisions of the SARFAESI Act under Section 31(i) of the Act. So, the applicant's mere claim of exemption under the SARFAESI Act would not help him in any way. The burden was upon the borrower to prove that the secured properties were agricultural lands and that the land was being used for agricultural purposes or agricultural activities were being carried on.

c) It is further submitted that, the Defendants 2 to 5 had participated in the e-auction and paid the EMD and the balance sale consideration as per the terms stipulated in the Sale Notice dated 22.02.2019. The Defendants 2 to 5 are bona fide purchasers for valuable consideration in the public e-auction conducted by the 1st Defendant. Hence, the interests of the Defendants 2 to 6 are to be protected by this Hon'ble Tribunal.

d) It is further submitted that, with respect to all other averments about the loan and recovery action taken by the 1st Defendant, this defendant does not have any personal knowledge and, as such, he is not ready to make any comment on the same. But, as the fact remains, on perusal of the records, the applicant had missed all his chances which were already provided to him by the 1st Defendant. Now, with an intention to defeat our rights, he has chosen to file the applications only to drag on the proceedings by creating multiple litigations. Further, there was no interim order in force during the confirmation of the sale over the subject property. There was no wrong sale date mentioned in the Sale

Certificate as alleged by the applicant. The applicant has to prove strictly all his baseless allegations made against the Defendants 2 to 6.

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:-*

I. Whether the Applicant has been able to prove his case in his favour?

II. Whether the Applicant is entitled to get the reliefs as prayed for?

6. Having heard the parties and upon perusal of the entire records, this Tribunal finds that there is no dispute between the parties with regard to the availment of an Agri Medium Term Loan facility for a sum of **Rs.15,00,000/- (Rupees Fifteen Lakhs only)** in the year 2009 by creating an equitable mortgage over the scheduled properties. In this case, the Applicant is the guarantor for the loan account availed by his wife, M. Shanthi, who obtained the loan facility from the Defendant Bank by mortgaging the scheduled properties. The Applicant contended that the borrower suffered heavy losses due to poor rainfall over the past four years, labour problems, and stiff competition in the field and, consequently, was unable to repay the loan dues in time. The Defendant Bank, on the other hand, submitted that despite being duly informed and afforded sufficient opportunities, the borrower failed to regularize the loan account by repaying the outstanding dues. Consequently, the loan account was classified as a Non-Performing Asset (NPA) on 31.03.2013. This Tribunal further finds that neither the Applicant nor the Defendant Bank has produced the Statement of Account pertaining to the loan account.

7. The Defendant Bank issued a Demand Notice under Section 13(2) on 15.11.2018 demanding a sum of **Rs.27,22,341/- (Rupees Twenty Seven Lakhs Twenty Two Thousand Three Hundred and Forty One only)** as on 15.11.2018 to the Applicant by registered post. This Tribunal has also perused the documents filed by the Defendant Bank. The Bank has produced a photocopy of the Demand Notice dated 15.11.2018 along with the postal acknowledgment (AD) cards as proof of service on the Applicant, annexed at pages 01 to 06 of the Bank's typed set of papers. This Tribunal further finds that the Applicant admitted that, upon receipt of the Demand Notice, he sought an explanation with regard to the same. However, the Applicant failed to produce any evidence in support of his claim.

8. Thereafter, the Defendant Bank issued a Possession Notice under Section 13(4) of the SARFAESI Act on 04.02.2019 for a sum of **Rs.28,00,879/- (Rupees Twenty Eight Lakhs Eight Hundred and Seventy Nine only)** as on 04.02.2019 to the Applicant by Registered Post. The Defendant Bank has also filed the postal acknowledgment (AD) cards, paper publications, and photographs of the affixture of the Possession Notice, which are annexed at pages 07 to 11 of the Defendant Bank's typed set of papers. The Applicant contended that the Defendant Bank had neither affixed nor published the said Possession Notice. On the other hand, the Defendant Bank, in its reply statement, contended that the Possession Notice was duly affixed and published in two leading newspapers. This Tribunal finds that the Defendant Bank has produced photocopies of the AD cards evidencing dispatch of the Possession Notice to the Applicant and copies of the paper publications in two newspapers, one in English and the other in Tamil. However, the photographs relating to the affixture of the Possession Notice do not disclose the date or place of affixture. Despite the direction of this Tribunal, the Defendant Bank has failed to produce the original documents. Rule 8(1) of the Security Interest (Enforcement) Rules, 2002, clearly provides that:

> "***8. Sale of immovable secured assets***.
>
> *(1) Where the secured asset is an immovable property, the authorized officer shall take or cause to be taken possession, by delivering a possession notice prepared as nearly as possible in Appendix IV to these rules, to the borrower and by affixing the possession notice on the outer door or at such conspicuous place of the property."*

In view of the above Provision, I find that the Defendant Bank has not followed the above provision in issuance of Possession Notice.

9. Thereafter, the Defendant Bank issued a Sale Notice dated 22.02.2019 fixing the e-auction for sale of the secured assets for a sum of **Rs.28,05,892/- (Rupees Twenty Eight Lakhs Five Thousand Eight Hundred and Ninety Two only)** as on 15.02.2019 and proceeded to sell the secured assets in favour of the auction purchasers. This Tribunal has also perused the photocopies of the Sale Notice, postal acknowledgment (AD) cards, photographs of affixture, and paper publications filed by the Defendant Bank. The Bank has produced photocopies of the AD cards evidencing dispatch of the Sale Notice to the Applicants, annexed at pages 12 to 16 of the typed set of papers. However, the Defendant Bank failed to produce the AD card in respect of one of the borrowers, namely, M. Shanthi. The Applicant contended that the Defendant Bank had neither affixed nor published the Sale Notice and had also failed to fix a separate reserve price for each secured asset. On the other hand, the Defendant Bank, in its reply statement, contended that the Sale Notice was duly affixed and published in two leading newspapers. However, there is no specific averment in the reply statement regarding the fixation of a separate reserve price for each secured asset. This Tribunal finds that the Defendant Bank has filed a photocopy of the photograph showing affixture of the Sale Notice on a conspicuous part of the property; however, the date and place of affixture are not discernible. Further, the Defendant Bank has produced photocopies of the paper publications in both Tamil and English newspapers. However, in the English newspaper publication, the date appears to have been handwritten as "FEB 23-2019", and the place of publication is not shown. These documents are annexed at pages 17 to 19 of the typed set of papers. It is pertinent to mention here that when a matter has been challenged before a court of law against the Defendant Bank regarding the proceedings initiated by him under the SARFAESI Act, he has to adduce substantive evidence to rebut the allegations of the Applicant, but in any case, oral statements cannot be accepted in the absence of substantive evidence. Therefore, this Tribunal finds that the Defendant Bank has failed to prove that they have complied with Rules 8(6) and 8(7) of the Security Interest (Enforcement) Rules, 2002, which clearly provide 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.]"

10. Thereafter, the Defendant Bank issued a Sale Certificate dated 30.05.2019 in favour of Defendants 2 to 5 and has produced a photocopy of the same. The Sale Certificate was subsequently registered on

04.09.2024 as Document No. 8634/2024, a copy of which has been produced by the Applicant and annexed at pages 01 to 21 of the Additional Typed Set of papers. It is further seen that, subsequent to the registration of the Sale Certificate, Defendants 2 to 5 executed Gift/Settlement Deeds in respect of the very same properties in favour of the 6th Defendant, which were registered as Document Nos. 7468/2025 and 7602/2025. Copies of the said documents have also been produced by the Applicant and annexed at pages 07 to 48 of the First Additional Typed Set of papers. It is further seen that an excess sale amount of Rs. 8,44,789.80 remained payable to the Applicant. In this regard, the Defendant Bank stated that it had sent a registered letter dated 04.02.2020 to the Applicant informing him about the refund of the excess sale proceeds; however, the letter was returned with the endorsement, "No such addressee." Nevertheless, the Defendant Bank has not produced either the said registered letter dated 04.02.2020 or the acknowledgment due (AD) card in support of its contention. The Applicant contended that the auction purchasers failed to comply with the mandatory payment schedule prescribed under Rule 9(4) of the Security Interest (Enforcement) Rules, 2002. On the other hand, the Defendant Bank, in its reply statement, contended that the Earnest Money Deposit (EMD) was paid on 26.03.2019, 25% of the sale consideration was deposited on 28.03.2019, and the remaining 75% was paid on 09.04.2019 and 10.04.2019. Upon perusal of the records, this Tribunal finds that the Applicant had filed a memo on 05.03.2020 seeking the details and proof of the payments made by the auction purchasers. However, despite the specific challenge and the pendency of these proceedings, the Defendant Bank has failed to produce any documentary evidence, such as payment receipts, bank statements, or account extracts, to substantiate its contention that the sale consideration was received within the time prescribed under Rule 9(4). Mere assertions in the reply statement, unsupported by documentary evidence, cannot be accepted as proof of compliance with the mandatory statutory requirements. In the absence of the primary records relating to the receipt of the sale consideration, this

Tribunal is unable to verify whether the mandatory timelines prescribed under Rule 9(4) have been strictly complied with. The Defendant Bank's failure to produce the relevant records, despite being called upon to do so, warrants an adverse inference against it. Consequently, such omission casts a serious doubt on the validity of the sale and the consequential Sale Certificate.

11. The Applicant further contended that the Defendant Bank has incorrectly stated that the sale was conducted on 20.03.2019, whereas the Sale Notice dated 22.02.2019 unequivocally fixed the e-auction on 28.03.2019. The Applicant also contended that the Defendant Bank has falsely recorded that the entire sale consideration was paid on 20.03.2019. Upon perusal of the records, this Tribunal finds that the Defendant Bank has failed to offer any explanation or rebuttal to these specific allegations. On the contrary, the registered sale certificate document bearing No. 8634/2024, produced by the Applicant and annexed at Pages 04 and 05 of the Additional Typed Set of Papers, clearly shows that the Sale Notice was issued on 23.02.2019 and that the e-auction was conducted on 20.03.2019. Additionally, the receipt evidencing payment of the sale consideration of **Rs.30,10,000/- (Rupees Thirty lakhs Ten thousand only)** by the auction purchaser in favour of Indian Bank, SAM Small Branch, in full on 20.03.2019, corroborates the Applicant's contention and clearly demonstrates that the recitals relied upon by the Defendant Bank are factually inconsistent with the Sale Notice and the contemporaneous records. Accordingly, this Tribunal finds merit in the Applicant's contention.

12. The Applicant further contended that, as per the Defendant Bank's own Valuation Report dated 05.02.2019, the guideline value of the property measuring 20.86 acres is Rs.5,00,000/- per acre. The Applicant also pointed out that the approved valuer has assessed the prevailing market value at only Rs.3,25,000/- to Rs.3,50,000/- per acre. In support of the said contention, the Applicant has produced a Guideline Value Certificate issued by the Sub-Registrar dated 07.05.2026, annexed at pages 10 and 11 of the Additional Typed Set of papers. Upon scrutiny of the Valuation Report dated 05.02.2019 (pages 22 to 44 of the Defendant Bank's typed set of papers) and the Guideline Value Certificate produced by the Applicant, this Tribunal finds the following discrepancies:

- ✓ Guideline Value maintained in the Registrar's Office – Rs.1,04,30,000/-
- ✓ Present Market Value of the Property – Rs.33,37,600/-

The above figures reveal a glaring and substantial disparity between the guideline value and the market value assessed by the Defendant Bank valuer. The Defendant Bank has neither offered any explanation nor produced any material to justify such a significant variation. This Tribunal further finds that the valuation report does not disclose the date of inspection, and there is no proof that the said valuation was taken with the consultation of secured creditor. These omissions cast serious doubt on the authenticity and reliability of the valuation report. The valuation of a secured asset forms the foundation for fixation of the reserve price and is intended to ensure that the secured asset is not sold for an undervalued price to the prejudice of the borrower. Therefore, strict compliance with Rule 8(5) of the Security Interest (Enforcement) Rules, 2002 is mandatory. In the present case, the unexplained disparity in valuation, coupled with the absence of essential particulars in the valuation report, clearly establishes that the Defendant Bank has failed to demonstrate strict compliance with the statutory requirements. Consequently, the valuation report cannot be accepted as a reliable basis for fixation of the reserve price. Rule 8(5) of the Security Interest (Enforcement) Rules, 2002, clearly provides 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".*

13. The principal contention of the Applicant is that the schedule-mentioned properties are agricultural lands and, therefore, exempted from the provisions of the SARFAESI Act by virtue of Section 31(i). In support of this contention, the Applicant submitted that the Defendant Bank's own Valuation Report classifies the land as Punjai and further describes the property as "Dry-Well Irrigation – Type One" with groundwater potential, thereby indicating its agricultural character. The Defendant Bank, however, denied the said contention without producing any convincing material to establish otherwise. Upon perusal of the records, this Tribunal finds that the Applicant has produced original photographs depicting agricultural activities carried out on the subject property, bearing the date 11.02.2026 with GPS Map Camera details, <u>annexed at pages 01 to 09 of the Additional Typed Set of papers</u>. Further, the Valuation Report relied upon by the Defendant Bank itself classifies the land as Punjai. The Defendant Bank has not produced any revenue records, land classification records, or other cogent evidence to establish that the secured assets are non-agricultural lands. Thus, the documentary evidence produced by the Applicant, coupled with the recitals contained in the Defendant Bank's own Valuation Report, prima facie establishes that the schedule-mentioned properties are agricultural lands. Consequently, the burden shifted to the Defendant Bank to disprove the Applicant's claim, which it has failed to discharge. Therefore, this Tribunal holds that the Applicant has successfully established that the schedule-mentioned properties are agricultural lands for the purpose of examining the applicability of Section 31(i) of the SARFAESI Act.

14. The contention of Defendants 2 to 5 that they are bona fide purchasers for valuable consideration has also been duly considered by this Tribunal. However, it is well settled that where an auction sale is vitiated due to non-compliance with the mandatory provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, such sale cannot be sustained merely on the ground that the purchasers are bona fide purchasers for value. The plea of bona fide purchase cannot validate an auction conducted in violation of the mandatory statutory requirements. This Tribunal further finds that the Gift/Settlement Deeds executed in favour of the 6th Defendant are only derivative transactions tracing their origin to the Sale Certificate issued in favour of Defendants 2 to 5. Such conveyances do not confer an independent or superior title, as a transferee cannot acquire a better title than that possessed by the transferor. Consequently, once the auction sale and the consequential Sale Certificate are held to be vitiated for non-compliance with the mandatory provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, the subsequent Gift/Settlement Deeds executed in favour of the 6th Defendant also become unsustainable in law and are liable to be declared invalid and set aside.

15. The Applicant has 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 Applicant without following the due process of law strictly.

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 Applicant 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 Applicant. Therefore, this Tribunal holds that the Applicant is entitled to get the reliefs as prayed for in **SA No. 220/2019**.

In the result,

a) **SA No. 220/2019 is allowed**. Sale Notice dated 22.02.2019 and Consequently, Sale Certificates dated 30.05.2019 are hereby set aside.

b) The Defendant Bank is directed to refund the entire sale consideration amount paid by the Auction purchaser along with 4% of simple 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.

c) The Applicant 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.

d) The Applicant is also directed to pay the interest at the simple 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.

e) All the expenditures incurred in issuance of Sale Notice dated 22.02.2019 shall not be included in the loan account of the Applicant.

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

g) The Registry is directed to inform the Thiruvarumpur Sub Registrar Office about this order so as to cancel the registration of the Sale Certificate dated 30.05.2019 vide Doc. No: 8634/2024 dated

04.09.2024 and the Gift/settlement deed Doc. No 7468/2025 dated 28.07.2025 & Doc. No 7602/2025 dated 31.07.2025.

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 14th July, 2026.

Sd/-

(SEEMA SINHA)

PRESIDING OFFICER

Uploaded on 21.07.2026