Fair Order

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI

DATED THIS 16th DAY OF JULY 2026

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

SA No.899/2025

1. Asraf Skin Merchant
   Mohamed Asraf Ali
   Rep. by its Proprietor
   37 VV Koil Street,
   Periamet, Chennai - 03.

2. Mohamed Asraf Ali,
   S/o. Abdul Malik, No.27/12,
   Alagapuram Main Road,
   Suramangalam, Salem – 05

3. Juvairiya Banu,
   W/o. Zakir Hussain,
   No. 127E, Bengalapettai,
   Madurai Road, Pallipatti,
   Begampur, Dindigul - 624 002. --- Applicants

-Vs-

1. The Authorised Officer,
   Indian Bank,
   Stressed Asset Management Branch,
   100-101, East Avani Moola Street,
   Madurai – 625 001. ---- 1st Defendant Bank

2. M/s. Khaja Moideen Leather Company,
   No.16/55, Perianna Maistry Street,
   Periamet, Chennai – 600 003. --- Auction Purchaser/ 2nd Defendant

<u>Appearance of Advocates:</u>
M/s. Rabi Jayakumar ---- ***Counsel for the Applicants***
Mr. R.Pandivel ---- ***Counsel for the 1st Defendant Bank***

Mr.N.Padmanabhan ---- Counsel for the 3rd Defendant/Auction Purchaser

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(1) of the SARFAESI Act, 2002 by the Applicants praying that this Hon'ble Tribunal may be pleased to call for the records pertaining to the initiation of proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, ending up with the Auction Sale Notice dated 04.10.2025 issued by the 1st Defendant and the consequential Auction Sale conducted by the 1st Defendant on 29.10.2025 as against the Applicants and the schedule-mentioned property, and quash the same and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.

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

a) It is submitted that, the 1st Applicant is a Proprietorship, and the 2nd Applicant is the proprietor. The 1st Applicant is an MSME priority sector unit engaged in the business of Leather Manufacturing. The 1st Applicant is a long-time customer of the 1st Defendant Bank and lastly availed the following credit facilities: OCC, TI, and RWC-OCC to the tune of Rs.90,00,000/-, Rs.1,35,00,000/-, and Rs.40,00,000/- respectively, and totally a sum of Rs.2,65,00,000/- from the 1st Defendant Bank for their business needs by mortgaging the schedule-mentioned property.

b) It is further submitted that, the Applicant was regular in repayment till the intervention of the Covid-19 Pandemic. However, due to the lockdown imposed by the Government in view of the Covid-19 Pandemic, the 1st Applicant's business came to a standstill, and the Applicants suffered huge loss and are struggling for their livelihood. Hence, the Applicants are not in a position to adhere to the repayment schedule of the 1st Defendant Bank.

c) It is further submitted that, suddenly, to the shock and surprise of the Applicants, the 1st Defendant Bank classified the loan account as NPA on 27.12.2020 during the Covid-19 Pandemic period, when the RBI guidelines dated 06.08.2020, issued to restructure the MSME loans to the loan accounts which were standard as on 01.03.2020, were in force. Hence, the classification of the loan account as NPA during the Covid-19 lockdown is against the RBI guidelines, and the same is illegal. Hence, the 1st Defendant Bank does not have any right or jurisdiction to proceed further under the SARFAESI Act, 2002.

d) It is further submitted that, the 1st Defendant Bank issued a Demand Notice under Section 13(2) of the Act dated 12.08.2021, claiming a sum of Rs.2,80,73,200.74. The Applicants, immediately on receipt of the 13(2) Demand Notice, approached the 1st Defendant Bank and sought restructuring of the loan account. It is pertinent to point out here that, due to Covid-19, the RBI had announced a restructuring package to the MSME sector, which was not considered by the 1st Defendant Bank even though they are duty-bound to grant the restructuring based on the RBI Guidelines.

e) It is further submitted that, in the meantime, the 1st Defendant Bank took symbolic possession of the property by issuing the Possession Notice dated 26.07.2022 under Section 13(4) of the SARFAESI Act, 2002. However, the Possession Notice dated 26.07.2022 was not affixed on the conspicuous part of the properties, nor was the same published in two leading newspapers as contemplated under the Act and Rules.

f) It is further submitted that, thereafter, the 1st Defendant Bank filed a petition before the Learned Chief Judicial Magistrate, Dindigul, in Crl.M.P. No. 18989 of 2022 under Section 14 of the SARFAESI Act, 2002, and the same was ordered on 21.06.2023 without notice to the Applicants, and an Advocate Commissioner was appointed for taking physical possession of the Property, and the Advocate Commissioner took physical possession of the Property and handed over the same to the 1st Defendant Bank. The Applicant had not challenged the Section 14 proceedings.

g) It is further submitted that, the 1st Defendant Bank thereafter made attempts to sell the property on 5 occasions, and the sale did not materialize. In the meantime, in order to give a quietus to the issue, the Applicants gave an OTS offer to the 1st Defendant on 29.07.2025, offering to pay a sum of Rs.2.55 crores towards full and final settlement and also paid an upfront amount of Rs.55 lakhs by borrowing from one of his friends who is ready and willing to purchase the said property for the time being, and whenever the Applicants pay back the money, he had agreed to redeliver the property to the Applicants. The 1st Defendant Bank agreed to consider the said request of the Applicants and informed the Applicants that the OTS proposal is under consideration with the Head Office of the 1st Defendant Bank. The Applicants are under the fond hope that the account will be settled under OTS, and the 1st

Defendant Bank would issue the OTS sanction letter and were eagerly waiting for the same.

h) It is further submitted that, When the matter stood thus, to the shock and surprise of the Applicants, the 1st Defendant Bank, without taking any fresh valuation of the Property, had issued the impugned Auction Sale Notice dated 04.10.2025 fixing the date of sale on 29.10.2025. However, the said Auction Sale Notice dated 04.10.2025 was not affixed on the conspicuous part of the property, nor was the same properly published in two leading newspapers as contemplated under the Act and Rules, and the 1st Defendant Bank had not followed the procedures prescribed under Rule 8(5) and Rule 8(6) of the SARFAESI Act, 2002. Further, the 1st Defendant Bank had conducted the Auction Sale on 29.10.2025 and sold the property to a third party and returned the upfront money of Rs.55.00 lakhs paid by the Applicants towards OTS. However, when the Applicants requested the 1st Defendant to furnish the details of the Auction Purchaser, the 1st Defendant refused to furnish the details to the Applicants. Aggrieved over the above action of the 1st Defendant, the Applicant is preferring the present application among the following grounds:

- The 1st Defendant ought to have seen that the classification of the Applicants' loan accounts as NPA during the Covid-19 lockdown is illegal, especially when the Applicants paid the EMI regularly till the intervention of the Covid-19 Pandemic. Hence, the 1st Defendant Bank does not have the right to classify the loan account as NPA, as the RBI had issued a circular on 06.08.2020 to restructure all the MSME loan accounts which are standard as on 01.03.2020. Hence, the classification of the loan account of the Applicants as NPA is bad in law, and the same is not legally sustainable.

- The 1st Defendant ought to have seen that since the classification of the Applicants' loan accounts as NPA by the 1st Defendant is bad in law, all the further proceedings initiated by the 1st Defendant are not legally sustainable.

- The 1st Defendant ought to have seen that the Applicants are eligible for renewal/restructuring of the loan account in view of the RBI guidelines issued during the Covid-19 Pandemic.

- The 1st Defendant Bank erred in issuing the Auction Sale Notice dated 04.10.2025 without taking any fresh valuation of the Property, as contemplated under Rule 8(5).

- The 1st Defendant Bank ought to have seen that Rules 8 and 9 were not properly followed by the 1st Defendant while issuing the Auction Sale Notice dated 04.10.2025 and conducting the Auction Sale on 29.10.2025.

- The 1st Defendant Bank conducted the Auction Sale on 29.10.2025 in a collusive and fraudulent manner, and only one person participated in the Auction Sale, and no bid multiplier was provided in the Auction Sale Notice, and the property was knocked down at the first call by quoting Rs.10,000/- more than the reserve price.

- The 1st Defendant Bank ought to have seen that the OTS proposal was under consideration with them and the Applicants had already paid a sum of Rs.55.00 lakhs towards the upfront amount for consideration of OTS.

In the written arguments, the counsel for the Applicant further submitted that,

i) The principal issue arising for consideration is whether the auction conducted on 29.10.2025 pursuant to the Sale Notice dated 04.10.2025 is liable to be set aside for violation of Rule 9(1) of the Security Interest (Enforcement) Rules, 2002, and whether the Applicant's right of redemption continues to subsist. The answer is unequivocally in the affirmative. Rule 9(1) of the Security Interest (Enforcement) Rules, 2002 mandates that no sale of an immovable secured asset shall take place before the expiry of 30 clear days from the date of publication/service of the sale notice.

j) It is further submitted that, in the present case, the Sale Notice was issued on 04.10.2025, and the auction was conducted on 29.10.2025, thereby providing only 25 days and not the mandatory 30 clear days contemplated under the statute. Such violation is apparent on the face of the record and renders the entire auction process illegal and unsustainable.

k) It is further submitted that, the object behind Rule 9(1) is to preserve and protect the borrower's valuable statutory and constitutional right of redemption by granting sufficient opportunity to arrange finances, redeem the secured asset, challenge illegal proceedings, secure better purchasers, and prevent the distress sale of valuable property. The requirement is mandatory and not directory.

l) It is further submitted that, the Hon'ble Supreme Court in *Mathew Varghese v. M. Amritha Kumar* authoritatively held that strict compliance with Rules 8 and 9 is mandatory and that the borrower's right of redemption survives until the completion of the sale in accordance with law. The Hon'ble Supreme Court further held that any sale conducted contrary to the statutory safeguards is unsustainable and violative of Article 300A of the Constitution of India.

m) It is further submitted that, the Hon'ble Supreme Court in *S. Karthik v. N. Subhash Chand Jain* reiterated that unless and until a clear 30 days' notice is given to the borrower, no valid sale can be effected by the secured creditor. The Hon'ble Supreme Court further held that where earlier sale notices lapse, the entire procedure contemplated under Rules 8 and 9 read with Section 13(8) must be followed afresh.

n) It is further submitted that, six separate sale notices were issued on 25.07.2023, 07.12.2023, 23.01.2024, 11.03.2024, 26.11.2024, and 04.10.2025. Each failed sale exhausted the earlier process, and the Bank was legally bound to strictly comply afresh with Rule 9(1) for every subsequent sale attempt. The impugned Sale Notice dated 04.10.2025 therefore independently required full compliance with the mandatory 30 clear days' requirement, which admittedly was not complied with.

o) It is further submitted that, repeated failed auctions further raise serious concerns regarding stale valuation, arbitrary reserve price fixation, a distress sale atmosphere, and the absence of proper fresh valuation under Rule 8(5). The Respondent Bank has failed to disclose strict compliance regarding fresh valuation before the successive auction attempts.

p) It is further submitted that, by interim order dated 07.11.2025 passed by this Hon'ble Tribunal, the Respondent Bank was specifically restrained from issuing the Sale Certificate subject to compliance with the deposit conditions. Pursuant thereto, the Applicant deposited Rs.1.80 Crores on 27.11.2025 and a further Rs.1.80 Crores on 26.12.2025, aggregating to Rs.3.60 Crores within the stipulated time. The said deposits exceed the auction consideration itself.

q) It is further submitted that, despite the subsistence of the judicial protection granted by this Hon'ble Tribunal, the Respondent Bank proceeded to receive the balance 75% sale consideration from the alleged auction purchaser during the pendency of the stay order. Such conduct amounts to overreaching judicial proceedings, interference with the adjudicatory process, and an illegal attempt to artificially create third-party equities during the pendency of the S.A.

r) It is further submitted that, the Respondent Bank cannot be permitted to improve the position of the auction purchaser by creating third-party claims during the subsistence of the judicial restraint. Any such act is non est in the eye of law and cannot extinguish the Applicant's redemption rights. The auction purchaser's rights, if any, remain wholly inchoate.

s) It is further submitted that, Admittedly, till date, no Sale Certificate has been issued; no registered conveyance exists; the sale proceeds remain parked in a No-Lien Account; title has not passed; and the sale remains incomplete under Rule 9(6). Therefore, no vested or crystallized right has accrued in favour of the auction purchaser.

t) It is further submitted that, The Hon'ble Supreme Court in *Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd.* examined the interplay between Section 13(8) of the SARFAESI Act and Section 60 of the Transfer of Property Act and reiterated that the mortgagor's right of redemption survives until the lawful completion of the sale through the issuance and registration of the Sale Certificate. The Hon'ble Supreme Court further recognized that Section 60 of the Transfer of Property Act continues to operate and that the secured creditor cannot defeat the borrower's redemption rights by prematurely creating third-party interests.

u) It is further submitted that, The Hon'ble Supreme Court further reiterated the settled principle laid down in *Narandas Karsondas v. S.A. Kamtam* that the mortgagor's right to redeem survives until the completion of the sale by a registered instrument, and mere acceptance of the bid amount or confirmation of the auction does not extinguish the equity of redemption.

v) It is further submitted that, the Respondent Bank is presently holding an amount exceeding the auction consideration, and the Applicant has already demonstrated a bona fide intention to redeem the secured asset. Further, the Applicant has separately filed a memo before this Hon'ble Tribunal expressing willingness to pay the further sum of Rs.83,00,000/- allegedly demanded by the Bank and has specifically sought cancellation of the Memorandum of Deposit of Title Deeds (MOD) and restoration of possession.

w) It is further submitted that, Once the entire dues are tendered and accepted, the mortgage stands redeemed both in law and equity. The Respondent Bank, being only a secured creditor, cannot continue to retain possession of the secured asset nor continue the encumbrance over the title documents after satisfaction of the dues. The Bank is legally bound to cancel the MOD, release the title deeds, restore possession, and recognize the redemption.

x) It is further submitted that, the Applicant's industrial unit is an MSME engaged in leather processing involving perishable raw materials and specialized machinery requiring continuous operation. Continued deprivation of possession has caused severe operational losses, deterioration of machinery, dispersal of skilled labour, and irreparable financial prejudice. Every further delay in the restoration of possession compounds the losses suffered by the Applicant.

y) It is further submitted that, the secured creditor acts as a trustee of the secured asset and is bound to act fairly, transparently, and strictly in accordance with the statutory mandate. The provisions of the SARFAESI Act cannot be interpreted in a manner that destroys the borrower's substantive right of redemption after the Tribunal itself protected the property and the borrower acted upon such protection.

z) It is further submitted that, equity overwhelmingly lies in favour of permitting redemption rather than irreversibly extinguishing the Applicants' industrial enterprise. The present case is not one involving speculative litigation or abuse of process. On the contrary, the Applicants have demonstrated bona fides by depositing Rs.3.60 Crores before this Hon'ble Tribunal pursuant to judicial directions. On the contrary, irreversible prejudice and permanent deprivation of property rights would be caused to the Applicant if the illegal auction proceedings are allowed to stand despite the admitted statutory violations and subsisting redemption rights.

In the Additional written arguments, the counsel for the Applicant further submitted that,

aa) The Defendant Bank had undervalued the property, fixed the lowest reserve price, and sold the property at a throwaway price, which is evident from the fact that, in the Valuation Report dated 24.07.2018 (Annexure - 1) of the Defendant Bank, taken at the time of sanctioning the loan by the Harbour Branch, the value of the property was arrived at as follows:

Market Value: Rs.9,44,00,000/-
Realizable Sale Value: Rs.8,49,00,000/-
Distress Sale Value: Rs.7,55,00,000/-

Whereas in the present two valuations taken by the 1st Defendant

Bank on 09.06.2025 and 30.08.2025 are as follows:-

Market Value: Rs.3,39,16,245/-

Realizable Sale Value : Rs.3,05,24,400/-

Distress Sale Value : Rs.2,88,28,600/-

And

Market Value: Rs.3,04,07,560/-

Realizable Sale Value: Rs.2,73,66,804/-

Distress Sale Value: Rs.2,58,46,426/-

The above facts will clearly prove the undervaluation done by the 1st Defendant Bank. Further, in the Valuation Report dated 27.04.2018, the Valuation Report contains the valuation for the Effluent Treatment Plant, Solar Sprinkler Yard, and Sewerage Pumping Well with Motor (Valuation Report inner page No. 10). However, the same was not valued in the subsequent valuation reports dated 09.06.2025 and 30.08.2025 filed by the 1st Defendant Bank. The above facts will clearly prove that the valuation was not properly done in terms of Rule 8(5) and that the property was undervalued and sold for a throwaway price.

ab) It is further submitted that, even in the Supreme Court judgment relied on by the 1st Defendant Bank and the Auction Purchaser in the case of ***CELIR LLP -Vs- BAFNA MOTORS (MUMBAI) PVT. LTD. & ORS.,*** it was clearly held that the auction sale can be set aside on the ground of undervaluation.

ac) It is further submitted that, in the present case on hand also, there was inadequate pricing, and the judgment of the Hon'ble Supreme Court will squarely apply to the present case. The above legal position was upheld by the Hon'ble Division Bench of the Madras High Court in the judgment of ***M/S. Palpap Ichinichi Software ... vs M/S. Indian Bank*** on 16 September 2011, which held, "...13. The core question is whether the sale was conducted in a fair and transparent manner, fixing the fair market value and upset price strictly in accordance with the provisions of the SARFAESI Act..."

ad) It is further submitted that, the valuation certificate dated 29 January 2008 shows that the market value of the property was a sum of Rs. 308.12 lakhs. Taking into account the said market value, the Authorised Officer fixed the reserve price at Rs. 3,10,00,000/-. The successful bidder quoted Rs. 3,15,00,000/-, followed by a second offer from another bidder for a sum of Rs. 3,10,00,000/-. In case the successful bidder failed to pay the bid amount, nothing prevented the Authorised Officer from calling upon the second highest bidder to pay the amount quoted by him. The file produced by the Bank does not contain any material subsequent to 15 December 2008 to indicate what had happened thereafter. Similarly, there is nothing on record to show that the money deposited by the successful bidder was forfeited on account of his failure to pay the balance amount.

ae) It is further submitted that, the subsequent valuation report was prepared by the very same valuer who originally issued the valuation report on 29 January 2008. The second valuation report dated 18 April 2010 drastically reduced the market value from Rs. 308.12 lakhs to Rs. 268.69 lakhs. The subject property is situated in a very covetable locality abutting the main road. Though nothing was mentioned about the distress value in the original valuation report, very strangely, the subsequent valuation report contains a statement about the forced/distress value, and it was fixed at Rs. 201.52 lakhs. Strangely, the Bank quoted the distress value.

af) It is further submitted that, when the land value is increasing day by day, it is strange on the part of the Authorised Officer to obtain a valuation report by reducing the market value by about Rs. 60 lakhs, which raises suspicion, that too after a period of two years and one month from the date of issue of the earlier valuation report. There is no question of a distress sale in a matter like this, considering the fact that the purchaser is none other than the secured creditor.

ag) It is further submitted that, the counter originally filed by the Bank does not contain any indication that an intimation was given to the petitioner about the decision of the Bank to participate in the public auction to be conducted on 26 May 2010. It was only by way of an additional counter that the Bank came up with a case that prior intimation was given to the petitioner regarding its participation. Though the notice under Section 13(2) and the possession notice under Section 13(4) were all sent by registered post, there is nothing on record to indicate that the notice dated 24 May 2010, intimating the petitioner about the participation of the Bank in the auction, was sent by registered post. Therefore, the case now projected in the additional counter affidavit that the petitioner was given prior intimation about the intended participation of the Bank in the auction is clearly an afterthought.

ah) It is further submitted that, the records were prepared after filing the counter affidavit to appear as if it was only with the knowledge of the petitioner that the Bank participated in the auction.

ai) It is further submitted that, the course of conduct adopted by the Bank clearly gives an indication that the market rate was deliberately reduced in the subsequent valuation report. The forced/distress value was shown only for the purpose of fixing a lower reserve price.

aj) It is further submitted that, the Hon'ble DRAT, Chennai, in the case of ***Karnataka Bank Ltd. -vs- Mahadeshwara Bricks and Ors.*** in RA (SA) No. 133/2013 (arising out of S.A. No. 465/2012 on the file of DRT, Bangalore), held as follows:

a. The ratio laid down in the aforesaid judgment squarely applies to the facts of the present case. Here too, the Defendant Bank has drastically reduced the value of the secured asset from the valuation obtained at the time of sanction of the loan to the subsequent valuation obtained for the purpose of auction, without disclosing any objective basis or justifiable reason for such substantial reduction.

b. The impugned valuation suffers from the very same infirmities noticed by the Hon'ble DRAT, namely, the absence of any rational methodology, failure to rely upon comparable market transactions, and arbitrary fixation of the market value. Consequently, the reserve price fixed by the Defendant Bank is vitiated, rendering the entire auction process illegal and liable to be set aside. Consequently, the Tribunal held that no reliance could be placed upon the contents of an unproduced document.

c. The Tribunal held that such a drastic reduction in value, in the absence of any cogent explanation or supporting material, clearly established that the secured asset had been grossly undervalued. Accordingly, the Tribunal accepted the contention of the borrowers and concluded that the valuation exercise was fundamentally flawed. In such circumstances, the Tribunal held that the sale of the entire secured asset was wholly disproportionate to the debt sought to be recovered.

ak) It is further submitted that, the Hon'ble Supreme Court further reaffirmed the principle laid down in ***Lakshmanasami Gounder v. C.I.T. Selvamani*** that the fundamental object of every public auction is to secure the maximum possible price for the property while eliminating arbitrariness, favouritism, underhand dealings, and every circumstance suggestive of underbidding. A public auction must inspire confidence by ensuring fairness, transparency, and objectivity throughout the sale process.

al) It is further submitted that, the ratio laid down in the aforesaid judgment squarely applies to the facts of the present case. The Defendant Bank has fixed the reserve price on the basis of a grossly depressed and arbitrary valuation, resulting in the secured asset being sold for only **Rs.3,39,10,000/-**, despite earlier valuations demonstrating that the property was worth substantially more. The auction purchaser was the sole bidder, and the property was sold for a mere **Rs.10,000/- above the reserve price**, which itself was founded upon an arbitrary valuation. Such a sale cannot be regarded as one that realised the true market value of the secured asset or fulfilled the statutory mandate of securing the best possible price.

am) It is further submitted that, in view of the law declared by the Hon'ble Supreme Court, the impugned auction sale cannot be sustained merely because it has been confirmed. Once this Hon'ble Tribunal is satisfied that the valuation was fundamentally flawed and that the auction process failed to secure a fair market price in accordance with the statutory mandate, it is fully empowered to set aside the Auction Sale Notice dated 04.10.2025 and the consequential auction sale held on 29.10.2025.

an) It is further submitted that, in view of the foregoing facts, the statutory violations committed by the Defendant Bank are neither procedural irregularities nor curable defects, but go to the very root of the SARFAESI proceedings. The Defendant Bank has failed to adhere to the mandatory requirements prescribed under the SARFAESI Act, 2002, and the Security Interest (Enforcement) Rules, 2002, thereby rendering the entire auction process fundamentally illegal and void.

ao) It is further submitted that, the falsity of the Bank's stand is apparent from the very documents relied upon by it. The photographs produced in support of the alleged affixture of the Sale Notice were admittedly taken during the night, whereas the earlier photographs relating to the Possession Notice, which were taken contemporaneously, clearly contain digitally embedded date and time stamps, thereby establishing their authenticity. In stark contrast, the photographs relied upon for the alleged affixture of the Sale Notice contain no digital date or time stamp whatsoever. Instead, the date has merely been handwritten, rendering the photographs wholly unreliable and incapable of proving compliance with Rule 8(7).

ap) It is further submitted that, the mandatory nature of Rule 8(7) of the Security Interest (Enforcement) Rules, 2002, has been unequivocally recognised by the Hon'ble Debts Recovery Appellate Tribunal, Kolkata, in ***Nampally Kishan v. Telangana Grameena Bank, represented by its Authorised Officer & Others,*** Appeal No. 134 of 2018 (arising out of S.A. No. 79 of 2017 on the file of DRT-I, Hyderabad). The Hon'ble Appellate Tribunal held that compliance with Rule 8(7) is mandatory and that the burden of proving such compliance squarely rests upon the secured creditor. The Tribunal further held that, where the Bank seeks to establish affixture of the Possession Notice or Sale Notice through photographs or other documentary evidence, such evidence must clearly establish the date, time, and manner of affixture. In the absence of reliable and contemporaneous proof demonstrating compliance with the mandatory statutory requirement, the Bank cannot merely assert that the notice had been affixed.

aq) It is further submitted that, in the said case, the Hon'ble DRAT found that the photographs relied upon by the Bank did not disclose the date on which the notice was allegedly affixed. Even the list of documents produced before the Appellate Tribunal did not contain any material indicating the date of affixture of either the Possession Notice or the Sale Notice. Consequently, the Tribunal held that the Bank had failed to discharge the burden cast upon it under Rule 8(7) and categorically observed that such non-compliance, by itself, was sufficient to allow the SARFAESI Application under Section 17 of the Act.

ar) It is further submitted that, the ratio of the aforesaid judgment applies in full force to the present case. Here also, the Defendant Bank has failed to produce any contemporaneous and reliable evidence proving that the Auction Sale Notice dated 04.10.2025 was affixed on the conspicuous part of the secured asset in the manner prescribed by Rule 8(7). On the contrary, the photographs relied upon by the Defendant Bank contain no digital date or time stamp and appear to have been created subsequently after the Applicants specifically challenged the alleged non-compliance. The Defendant Bank has, therefore, failed to discharge the statutory burden cast upon it. Consequently, the Auction Sale Notice dated 04.10.2025 and the consequential auction sale held on 29.10.2025 stand vitiated and are liable to be set aside on this ground alone.

as) It is further submitted that, in the present case, the mandatory statutory timeline prescribed under Rule 9(4) stood frustrated owing to judicial restraints. The delay was not occasioned by any conduct attributable to the borrowers. During the subsistence of such proceedings, the borrowers discharged the outstanding liability. Consequently, the statutory right of redemption remained alive and enforceable. Since the sale itself never attained legal completion in the manner contemplated by the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002.

at) It is further submitted that, the Defendants' reliance upon the judgment in Bafna Motors Pvt. Ltd. is, therefore, wholly misconceived. That decision proceeded on an entirely different factual and legal foundation and cannot be invoked to validate an auction sale which suffers from fundamental statutory infirmities. On the contrary, the ratio laid down in Mathew Varghese squarely governs the present controversy and unequivocally affirms that the borrowers' right of redemption survives until a sale is lawfully completed in strict conformity with the statutory framework.

au) It is further submitted that, accordingly, the auction sale conducted by the 1st Defendant in favour of the 2nd Defendant, being contrary to the mandatory provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, is legally unsustainable, void in law, and liable to be declared invalid and set aside. Any consequential Sale Certificate or subsequent transaction flowing therefrom is equally liable to be annulled as being non est in the eye of law.

av) It is further submitted that the 1st Defendant Bank, pursuant to the e-auction conducted on 29.10.2025, purportedly sold the secured asset in favour of the 2nd Defendant for a sale consideration of Rs.3,39,10,000/- (Rupees Three Crores Thirty-Nine Lakhs Ten Thousand Only), being a mere Rs.10,000/- above the reserve price, with the 2nd Defendant being the sole bidder in the auction.

aw) It is further submitted that, pursuant to the conditional order passed by this Hon'ble Tribunal, the Applicants had already deposited a sum of Rs.3,60,00,000/- (Rupees Three Crores Sixty Lakhs Only), which itself exceeded the entire auction consideration. Further, in the Reply Statement filed before this Hon'ble Tribunal, the 1st Defendant Bank categorically admitted that only a balance sum of Rs.82,38,601/-

(Rupees Eighty-Two Lakhs Thirty-Eight Thousand Six Hundred and One Only) remained outstanding as on 28.02.2026.

ax) It is further submitted that, in order to demonstrate their bona fides and unequivocal intention to discharge the entire outstanding liability, the Applicants have now obtained two Demand Drafts aggregating Rs.85,00,000/- (Rupees Eighty-Five Lakhs Only), the particulars whereof are as follows:

(a) Demand Draft No.072825 dated 08.07.2026 for Rs.42,50,000/- (Rupees Forty-Two Lakhs Fifty Thousand Only), drawn on Canara Bank, in favour of the 1st Defendant Bank (Annexure-2); and

(b) Demand Draft No.618320 dated 08.07.2026 for Rs.42,50,000/- (Rupees Forty-Two Lakhs Fifty Thousand Only), drawn on Indian Bank, Purasawalkam Branch, in favour of the 1st Defendant Bank (Annexure-3).

ay) It is further submitted that, the Applicants further undertake that, <u>should any additional amount remain payable upon reconciliation of accounts, they are ready and willing to remit the same immediately upon the 1st Defendant Bank producing a duly certified statement of account before this Hon'ble Tribunal</u>.

az) It is further submitted that, by virtue of the aforesaid payments, the entire dues of the 1st Defendant Bank stand substantially satisfied. In fact, **the Bank would receive an amount of approximately Rs.1.06 Crores in excess of the auction consideration of Rs.3,39,10,000/- paid by the 2nd Defendant Auction Purchaser.** Thus, the financial interest of the secured creditor, which is the primary object of the proceedings under the SARFAESI Act, stands fully protected.

SCHEDULE OF IMMOVABLE PROPERTY

Land and Factory building comprising Survey No.654/3 as per Patta No.2758, New Survey No.654/3A, situated at Dindigul District, Dindigul Taluk, Pallapatti Village, and situated within the Registration District of Dindigul and Sub-Registration District of Dindigul Joint II, measuring an extent of 2 Acres 69 Cents together with the Shed.

On the North: S.Nos 654/3B, 655/1B1, 655/2B & 655/1B2

On the South: S.Nos. 648 & 649

On the East: Common road

On the West: S.No. 653

Measuring

East to West on the Northern Side: 64ft

East to West on the Southern Side: 65ft

North to South on the Eastern side: 40ft

North to South on the Western side: 40ft.

The Applicants have filed the following List of documents in support of their claim in the SA, which are as follows:

S.No.	Date	Description
1.	01.04.2016	MSME Registration Certificate
2.	06.08.2020	RBI Guidelines for MSME
3.	26.07.2022	13(4) Possession Notice
4.	21.06.2023	Order of CJM, Dindigul in Crl.M.P.No.18989 of 2022
5.	29.07.2025	OTS Letter along with down payment proof
6.	04.10.2025	Impugned Auction Sale Notice

Annexures in Additional Written Arguments filed by the Applicants, on 09.07.2025

S.No.	Date	Documents
1.	24.07.2018	Valuation Report
2.	08.07.2026	D.D.No 072825 for a sum of Rs.42,50,000/- drawn on Canara Bank
3.	08.07.2026	D.D.No 618320 for a sum of Rs.42,50,000/- drawn on Indian Bank, Purasawalkam Branch

3. On the other hand, the Counsel for the 1st Defendant Bank appeared before this Tribunal and filed Reply Statement, Written Arguments & Typed set of papers stating therein that which they have submitted that,

a) The Applicants were not regular in repayment of the loan amount and that the reasons stated by the Applicants for non-repayment are not acceptable and that, despite having sufficient means, the Applicants have not repaid the loan wantonly and wilfully and that the Applicants are wilful and chronic defaulters and that the Bank has rightly declared and classified the account as NPA and it is neither against the RBI guidelines nor illegal and that the Bank is very well entitled to proceed under the SARFAESI Act. The Applicants never approached the Bank after issuance of the Demand Notice for any restructure and that the Applicants' loan account is not eligible for any restructure and that the Bank is not duty-bound to restructure the loan. So the question of non-considering the restructure of the loan does not and will not arise.

b) It is further submitted that, the contention of the Applicants that, as per RBI guidelines dated 06.08.2020, the Bank is liable to restructure the loan is highly untenable. Moratorium in repayment was extended to the Applicants' loan accounts as per the RBI guidelines before classifying the account as NPA. The account was not eligible for restructure as per the guidelines in force, as there was no sufficient stock and the unit was not functioning.

c) It is also submitted that, the Possession Notice was affixed on the conspicuous part of the property as well as published in two leading newspapers. It is not mandatory that the CJM has to send notice to the defaulters before passing orders for taking physical possession of the property. In the OTS proposal dated 29.07.2025, the Applicant has informed that the property value is less and the market price per acre is Rs.60 lakhs to Rs.70 lakhs and the factory building does not have any value since very old Mangalore tiles have been used and the factory was closed. As such, the maximum total value, as per his version, is Rs.1.89 crores only. Moreover, the Applicant himself has given a request dated 30.09.2025 asking the Bank to keep the upfront amount and continue the OTS proposal after the sale proceedings if the sale fails. Moreover, after completion of the sale, the Applicant requested a refund of the upfront amount vide letter dated 31.10.2025, and the same was refunded accordingly. Under these circumstances, the allegations raised by the Applicants with regard to OTS are highly untenable and unsustainable.

d) It is further submitted that, before issuance of the Sale Notice, the Bank had obtained valuation reports, and the reserve price was fixed as per the said valuation report, and the Sale Notice was published in two leading newspapers as well as affixed on the conspicuous part of the property in compliance with the SARFAESI Act. The Bank has followed the procedures prescribed under the Act and Rules with regard to the issuance of the Sale Notice and the sale held are neither arbitrary nor unreasonable nor legally unsustainable and the action of the Bank never suffers from errors apparent on the face of the records and that the action of the Bank is neither unlawful nor unreasonable nor without jurisdiction nor against the principles of natural justice.

e) It is further submitted that, the Bank has conducted the sale legally and lawfully as per the SARFAESI Act and Rules and that the Bank never colluded with anyone. The allegations of the Applicants are highly defamatory and the Applicants have raised those allegations against their own conscience. The 'bid multiplier' is mentioned and provided in the Sale Notice published in the newspapers. In the Sale Notice sent to the defaulters, it was specifically stated that the tender/bid form with terms and conditions can be obtained from the website.

f) It is further submitted that, it has issued the Demand Notice and the same was also duly served on the Applicants. The Defendant Bank begs to submit that it has taken symbolic possession of the property and issued the Possession Notice, and the Possession Notice was duly served on the Applicants and affixed on the conspicuous part of the property, and the Possession Notice was also published both in a Tamil daily and in an English daily in time. The Defendant Bank begs to submit that the Defendant Bank obtained a valuation report from the approved valuer for the property, who has assessed the value of the property, and that the Defendant Bank has properly and rightly fixed the value of the property and the reserve price.

g) It is further submitted that, it has issued the Sale Notice, and the Sale Notice was duly served on the Applicants and affixed on the conspicuous part of the property, and the Sale Notice was also published both in a Tamil daily and in an English daily. The Defendant Bank begs to submit that in Paras 5, 6, and 9 of the SARFAESI Application under the heading "Facts of the Case", the Applicants have categorically admitted the receipt of the Demand Notice, Possession Notice, and Sale Notice. The Defendant Bank begs to submit that the Applicants have not sent any reply to the Section 13(2) Demand Notice. Non-sending of a reply to the Section 13(2) Demand Notice is fatal to their case.

h) It is further submitted that, the Applicants have not challenged the Possession Notice. Non-challenging the Possession Notice is fatal to their case. The Defendant Bank begs to submit that it has issued 6 Sale Notices dated 25.07.2023, 07.12.2023, 23.01.2024, 11.03.2024, 26.11.2024, and 04.10.2025. The sale was held pursuant to the 6th

Sale Notice dated 04.10.2025. It is pertinent to note that the Applicants have not challenged the Sale Notices dated 25.07.2023, 07.12.2023, 23.01.2024, 11.03.2024, and 26.11.2024. Non-challenging those Sale Notices is fatal to their case.

i) It is further submitted that, the Defendant Bank has issued the Sale Notice dated 04.10.2025 to the Applicants by fixing the date of sale on 29.10.2025 and that the sale was held on 29.10.2025, in which the property mentioned in the Sale Notice has been sold and that one M/s. Khaja Moideen Leather Company was declared the successful bidder and that the sale was confirmed in its favour and the auction purchaser has paid the entire sale consideration and, due to the interim order of this Hon'ble Tribunal, the sale proceeds paid by the auction purchaser are parked in the no-lien account of the Bank and the Sale Certificate was not issued. The auction purchaser's interest is involved, and the same has to be protected. It is a well-settled principle of law that the right of redemption can be exercised only before the issuance of the Sale Notice and sale of the property and not thereafter. So the Applicants had lost their right of redemption and they are not entitled to redeem the property. On this ground alone, the SARFAESI Application is liable to be dismissed. The Applicants have approached this Hon'ble Tribunal only after confirmation of the sale. It goes without saying that the Applicants have been watching the proceedings behind the back and, as soon as the sale was confirmed, the Applicants rushed to this Hon'ble Tribunal. It shows the mala fide intention of the Applicants. The Applicants allowed the Bank to sell the property. So they are not entitled to any relief.

j) It is further submitted that, the Applicants did not settle the dues on or before the date fixed for sale. The Applicants are well aware that the property was about to be sold in the public auction. Despite the same, they neither redeemed the property by paying the loan nor brought a buyer nor participated in the auction. The Applicants are not having any intention to pay off the loan. The Applicants waded out of the commitment made by them. The law does not come to the rescue of a sleeping man. The Applicants could have availed themselves of the benefit of Section 13(8). The opportunity was given to retain/redeem the property. But the Applicants did not avail themselves of that opportunity. The Bank has sold the property in the auction sale and the sale was confirmed, and it is well settled in law that settled rights should not be lightly interfered with. Further, the auction purchaser invested the amount, and his interest has to be safeguarded. Further, there will be no certainty about the auction sale if the allegations have been raised, that too after confirmation of the sale, and it will prejudice the very system of auctions under the SARFAESI Act and will result in a rule of thumb, which cannot be permitted, and the very purpose of the SARFAESI Act will be defeated. The settled sale cannot be attempted to be unsettled. The interest of the auction purchaser has to be protected. The Tribunal should afford protection to the auction purchaser. Unless protection is extended, no person will bid for the properties in the auction under the SARFAESI Act, and the very purpose of the SARFAESI Act will be defeated and it will affect the Indian economy.

k) It is also submitted that actual possession was already taken in the year 2023 on the foot of the order passed by the Hon'ble CJM, Dindigul, dated 21.06.2023 in Crl.M.P. No.18989/2022. It is pertinent to note that the Applicants have themselves admitted the said fact in Para 7 of the SARFAESI Application under the heading "Facts of the Case".

l) It is further submitted that, the Applicants have approached this Hon'ble Tribunal in S.A. No.497/2023 challenging the order passed by the Hon'ble CJM, and this Hon'ble Tribunal has passed a conditional order of stay. But the Applicants have not complied with the conditional order and they have not utilized the opportunity given by this Hon'ble Tribunal. The Applicants have allowed S.A. No.497/2023 to be dismissed for default. Till now, the same has not been restored. It goes without saying that the Applicants are not ready to redeem the property. It is fatal to the Applicants' case.

m) It is further submitted that, the Applicants have filed I.A. No.4813/2025 praying that this Hon'ble Tribunal direct the Bank to issue the Sale Certificate to 3rd parties. The allegations in the said petition are that some 3rd parties are now ready to purchase the property by paying more than the auction bid amount and so the Sale Certificate has to be issued to the 3rd parties identified by the Applicants. The said allegations are highly untenable and unsustainable. The Authorized Officer can issue the Sale Certificate only to the auction purchaser and that the Authorized Officer cannot and should not issue the Sale Certificate to any 3rd parties. So the petition is liable to be dismissed with exemplary costs.

n) It is further submitted that, the Applicants have filed I.A. No.878/2026 praying that this Hon'ble Tribunal restore the physical possession to the Applicants. The Bank strongly and vehemently denies the allegations in the said petition stating that, while the stay is in force, the Bank has received 75% of the sale proceeds from the auction purchaser and it is contrary to judicial discipline and the Hon'ble Tribunal's Order, as absolutely false, totally misleading, and highly unsustainable; whereas this Hon'ble Tribunal has directed the Bank not to issue the Sale Certificate alone. So there is no bar in receiving the balance sale proceeds. The Bank strongly denies the allegations in the petition stating that the factory contains various processing units and heavy machinery which cannot remain idle for prolonged periods and since the physical possession was taken by the

Bank, the raw material earlier stored has decayed and that the machinery which remains non-operational will cause corrosion, calibration loss, and mechanical deterioration and that the Applicants are put to substantial loss and since the Applicants have complied with the conditional order by paying Rs.3,60,00,000/-, the physical possession has to be restored to them, as absolutely false, totally misleading, and highly unsustainable; whereas the facts remain that no stock and raw material were available in the unit and that the unit was not functioning while the Bank was taking physical possession of the property. It is pertinent to note that the Applicants have not at all challenged the CJM order and the physical possession taken by the Bank. Hence, now they cannot seek relief to restore the physical possession by way of an interlocutory application. It is pertinent to note that in the OTS proposal dated 29.07.2025, the Applicants themselves have categorically stated that the machinery is in scrap condition. Under these circumstances, the allegations put forth by the Applicants are highly untenable. The Defendant Bank begs to submit that even after adjusting the sale proceeds, the defaulters are liable to pay a sum of Rs.82,38,601/- as on 28.02.2026 with subsequent interest and costs.

o) It is further submitted that, there is no procedural irregularity on the part of the Bank in issuing the Demand Notice and taking possession and issuing the Possession Notice and issuing the Sale Notice and bringing the property for sale and confirming it and getting an order from the Hon'ble CJM and taking possession under the SARFAESI Act and Rules and that the alleged procedural irregularities mentioned in the SARFAESI Application are not factually and legally correct and that the Bank has issued the Demand Notice, Possession Notice, and Sale Notice and conducted the sale and confirmed it and got an order from the Hon'ble CJM and took possession only as per the provisions and procedures of the SARFAESI Act and Rules. Hence, if the Sale

Notice and sale held are set aside, the Bank and the auction purchaser will be put to untold hardship and irreparable loss and injury and, on the other hand, no prejudice will be caused to the Applicants. The Applicants are not having any prima facie case. The balance of convenience is only in favour of the Defendant Bank.

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

Typed set filed by the 1st Defendant Bank on 24.03.2026

S.No.	Date	Particulars
1.	12.08.21	Original Demand Notice duly signed by the defaulters by acknowledging the receipt of the demand notice
2.	26.07.22	Original Possession Notice with Original Postal Receipts & Original AD Cards
3.	26.07.22	Possession Notice Original Paper Publication in English Daily "The New Indian Express" Published on 29.07.22
4.	26.07.22	Possession Notice Original Paper Publication in Tamil Daily "Dinamani" Published on 29.07.22
5.	26.07.22	Original Photography showing affixture of Possession Notice
6.	04.10.25	Original Sale Notice (on which sale was held) with Original Postal Receipts & Original AD Card & Original Return Covers
7.	04.10.25	Sale Notice (on which sale was held) Original Paper Publication in English Daily "The New Indian Express" Published on 10.10.25
8.	04.10.25	Sale Notice (on which sale was held) Original Paper Publication in Tamil Daily "Dinamani" Published on 10.10.25
9.	04.10.25	Original Photography showing affixture of Sale Notice (on which sale was held)
10.	09.06.25	Valuation Report
11.	30.08.25	Valuation Report
12.	25.07.23	Previous Sale Notice
13.	07.12.23	Previous Sale Notice
14.	23.01.24	Previous Sale Notice
15.	11.03.24	Previous Sale Notice
16.	26.11.24	Previous Sale Notice
17.	29.07.25	OTS proposal by applicant

18.	30.09.25	Letter by applicants
19.	31.10.25	Letter by applicants to return the OTS upfront amount

4. The 2nd Defendant/Auction Purchaser also appeared before this Tribunal and filed Written Arguments, Additional Written Arguments & Counter Affidavit in which he submitted that the 1st Respondent Bank issued the Sale Notice dated 04.10.2025 and conducted the e-auction on 29.10.2025 strictly in accordance with Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002, and I participated in the auction as a bona fide purchaser for value, was declared the highest and successful bidder, paid 25% on the date of the auction, and subsequently paid the balance 75%, thereby paying the entire sale consideration of Rs.3,39,10,000/-. The 1st Respondent-Bank confirmed receipt of the entire consideration and acknowledged the completion of the sale formalities. Therefore, the statutory sale stood concluded, and my rights crystallised upon full payment and confirmation.

a) It is further submitted that, the Petitioners/Applicants rely upon the conditional order dated 07.11.2025 passed in I.A. No. 4416/2025, and the said order merely restrained the issuance of the Sale Certificate, subject to the deposit of Rs.3.60 Crores. The said order was expressly passed "without going into the merits" and did not set aside the auction nor declare it illegal.

b) It is further submitted that, it is settled law that the mere withholding of the Sale Certificate does not invalidate a concluded auction sale once the full consideration is paid. The Petitioners/Applicants cannot, by a subsequent deposit, defeat vested third-party rights.

c) It is further submitted that, the Petitioners contend that, since they deposited Rs.3.60 Crores (higher than the auction amount), the auction must fail. This contention is legally unsustainable. The SARFAESI Act does not contemplate comparison of amounts after the conclusion of the auction. The auction process cannot be converted into a bidding war after its completion. Permitting such a practice would destroy the sanctity of public auctions and discourage bona fide bidders. The Supreme Court has repeatedly held that commercial certainty and the sanctity of auctions must be protected.

d) It is further submitted that, the 1st Respondent-Bank received 75% of the sale consideration during the pendency of the stay. It is submitted that 25% was paid on the date of the auction, and the balance payment was made pursuant to the statutory timeline under Rule 9(4). The funds were kept in a no-lien account pending the outcome. There was no violation of any judicial order.

e) It is further submitted that, the Petitioners claim MSME hardship and operational losses. Such pleas are emotional and irrelevant to the legality of the concluded sale. On the contrary, he has altered his position as a lawful bidder, arranged finances, obtained regulatory approvals, and locked in my substantial capital. Retention of my money without the issuance of the Sale Certificate amounts to arbitrary deprivation of property in violation of Article 300A.

f) It is further submitted that, the secured asset is under the lawful custody of the 1st Respondent-Bank, and the Petitioners' business hardship, if any, is a self-created consequence of the loan default. Financial liability cannot be converted into an equitable entitlement to override a statutory auction.

g) It is further submitted that, aggrieved by the conditional order passed in the above proceedings, he has already preferred a statutory appeal before the Hon'ble Debts Recovery Appellate Tribunal, Chennai, in Appeal No. 2833 of 2026, challenging the interim order and the consequences flowing therefrom. The said appeal has been duly numbered and is pending adjudication before the Hon'ble DRAT, Chennai. In the said Appeal No. 2833 of 2025, he has also filed I.A. No. 261 of 2026 seeking an interim injunction and appropriate interim protection of my vested rights as a bona fide auction purchaser. The said Interim Application is also pending consideration before the Hon'ble DRAT, Chennai.

h) It is further submitted that, during the pendency of the above statutory appeal and the connected I.A. before the Hon'ble DRAT, the Petitioners herein, suppressing the material fact of the pendency of Appeal No. 2833 of 2025 and I.A. No. 261 of 2026, have filed the present I.A. in the S.A. seeking restoration of possession. The said suppression amounts to an abuse of the process of law and is a sufficient ground for dismissal of the present I.A. in limine. It is settled law that a litigant who suppresses material facts is not entitled to any equitable relief.

i) It is further submitted that, when a statutory appeal under Section 18 of the SARFAESI Act, 2002 is pending before the Hon'ble DRAT, the Tribunal below becomes functus officio to the extent of the matters which are the subject matter of the appeal. The Applicants cannot simultaneously pursue parallel proceedings seeking identical or overlapping reliefs before two different forums. Such multiplicity of proceedings is impermissible in law and contrary to judicial discipline.

j) It is further submitted that, the Petitioners cannot invoke Section 13(8) of the SARFAESI Act at this belated stage. As per Section 13(8), the borrower's right to redeem the secured asset is available only before the date of publication of the notice for public auction or before the secured creditor completes the sale, upon tendering the entire dues together with costs and charges. In the present case, the Sale Notice dated 04.10.2025 was issued, and the e-auction was conducted on 29.10.2025. The Petitioners admittedly did not tender the entire dues prior to the auction. In the present case, the measures under Section 13(4), including the issuance of the Possession Notice and the subsequent Sale Notice, were taken well prior to the filing of this S.A. No. 899 of 2025. The Petitioners have approached this Hon'ble Tribunal belatedly, without properly explaining each day's delay. The S.A. is, therefore, barred by limitation and liable to be rejected in limine.

k) It is further submitted that, the limitation prescribed under Section 17 is mandatory in nature. The borrower cannot keep silent during the statutory process and, after the completion of the auction, approach the Tribunal with the sole intention of frustrating the sale. The Hon'ble Supreme Court, in Authorized Officer, State Bank of Travancore v. Mathew K.C., has held that SARFAESI proceedings cannot be stalled by belated and dilatory tactics and that statutory remedies must be exercised strictly within the prescribed framework.

l) It is further submitted that, the Petitioners participated in the proceedings and were fully aware of the auction process. Having failed to challenge the measures within the statutory period, they are estopped from questioning the completed sale. The present S.A. is, therefore, hit by delay, laches, and acquiescence.

m) It is further submitted that, the Applicants have failed to establish any violation of SARFAESI provisions. The Bank has acted strictly in accordance with law. This 2nd Respondent has complied with every statutory requirement and has acquired vested rights as a bona fide auction purchaser.

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 the above pleadings, now the points which arise for consideration are:-

i) Whether the Applicants are entitled to get the reliefs as prayed for?

ii) Whether the Applicants have been able to prove their case in their favour?

6. Having heard the parties, perused the entire records available on file, and after considering the submissions made by the learned counsel appearing on either side, I find that it is an admitted fact that the Applicants had availed various credit facilities from the 1st Defendant Bank by mortgaging the schedule-mentioned property. It is not in dispute that the Applicants were initially regular in servicing the loan accounts in accordance with the agreed terms. The Applicants themselves have admitted in their pleadings that, due to the intervention of the COVID-19 pandemic and the huge loss in their business, they were unable to repay the loan dues. Consequently, the 1st Defendant Bank classified the loan account as a Non-Performing Asset (NPA) on 27.12.2020 and initiated measures under the SARFAESI Act. In the facts and circumstances of the case, this Tribunal does not find any illegality in the classification of the loan account as NPA. However, it is observed that neither the Applicants nor the 1st Defendant Bank has produced the statement of account relating to the loan facilities before this Tribunal.

7. Thereafter, the Defendant Bank issued a Demand Notice dated 12.08.2021 under Section 13(2) of the SARFAESI Act to the borrowers, demanding a sum of **Rs.2,80,73,200.74p (Rupees Two Crores Eighty Lakhs Seventy-Three Thousand Two Hundred and Seventy-Four Paise only)** as on 11.08.2021. I carefully perused the documents produced by the Defendant Bank. The Bank has filed the original Demand Notice along with the acknowledgement receipt duly signed by the borrowers as proof of due service upon the Applicants, which are found at pages 01 to 10 of the typed set of papers filed by the Bank. The Applicants have also admitted in the facts of the case that they approached the Defendant Bank for restructuring of the loan account after receipt of the Demand Notice. It is further seen that the Applicants neither submitted any representation nor raised any objection to the Demand Notice under Section 13(3-A) of the SARFAESI Act. In view of the above materials available on record, I find that the Defendant Bank has duly complied with the mandatory requirements prescribed under the SARFAESI Act while issuing and serving the Demand Notice upon the Applicants.

8. Thereafter, the Defendant Bank issued a Possession Notice dated 26.07.2022 under Section 13(4) of the SARFAESI Act, demanding a sum of **Rs.3,12,87,044.19 (Rupees Three Crores Twelve Lakhs Eighty-Seven Thousand Forty-Four and Nineteen Paise only).** I perused the records produced by the Defendant Bank. The Bank has filed the original Possession Notice along with the Acknowledgement (AD) cards as proof of service upon the Applicants, which are annexed at pages 11 to 17 of the typed set filed by the Bank. However, it is observed that the Bank has not produced the AD card in respect of one of the borrowers, namely Mr. A. Mohamed Asraf Ali. Additionally, the available Acknowledgement (AD) card relating to the 3rd Applicant indicates that the notice was received and acknowledged by another person, namely, Salima admission by Applicant. The Applicants have further contended that the Possession Notice was neither affixed on the secured asset nor published in the newspapers as mandated under the Security Interest (Enforcement) Rules, 2002. On the contrary, the Defendant Bank has produced the original newspaper publications and photographic evidence, which are annexed at pages 18 to 20 of the typed set filed by the Bank, to rebut the said allegation. It is also an admitted fact that the Applicants have produced a copy of the Possession Notice along with the S.A., which, according to them, is the notice served upon them by the Defendant Bank. However, upon comparing the copy of the Possession Notice produced by the Applicants with the original Possession Notice produced by the Defendant Bank, this Tribunal finds that the copy relied upon by the Applicants contains Survey No. 167/B, whereas the said survey number does not find place in the original Possession Notice produced by the Defendant Bank. The Defendant Bank has not furnished any explanation regarding this discrepancy. Such inconsistency in the contents of the documents, both of which are stated to relate to the same Possession Notice, creates doubt as to the exact contents of the notice served upon the Applicants. In the absence of any satisfactory explanation from the Defendant Bank, this Tribunal is of the considered view that the Defendant Bank has not satisfactorily established strict compliance with the mandatory procedure prescribed under the SARFAESI Act while issuing the Possession Notice. Before parting with this issue, this Tribunal deems it appropriate to observe that the Defendant Bank, being a secured creditor exercising statutory powers under the SARFAESI Act, is expected to maintain utmost accuracy, consistency, and transparency in all statutory notices and documents issued to borrowers as well as in the records produced before judicial forums. The Defendant Bank shall ensure that the documents served upon the borrowers and those produced before this Tribunal are true, complete, and consistent in all material particulars. Any unexplained discrepancy or inconsistency in such documents is liable to undermine the fairness and credibility of the statutory enforcement process.

9. Subsequently, the 1st Defendant Bank obtained an order dated 21.06.2023 from the Chief Judicial Magistrate in Crl.M.P. No. 18989/2022 for taking physical possession of the secured asset. The Applicant contended that the said order was passed without notice to them. Since an order passed by the Chief Judicial Magistrate under Section 14 of the SARFAESI Act is only an administrative order for assisting the secured creditor in taking physical possession of the secured asset, issuance of notice to the borrower is not required.

10. Thereafter, the Defendant Bank issued the five Sale Notices dated 25.07.2023,07.12.2023, 23.01.2024, 11.03.2024, 26.11.2024 to the borrowers. I also find that the Defendant Bank has filed the Xerox copy of the Sale Notices which are annexed at pages 66 to 87 of the typed set filed by the Bank. However, it is admitted by the Applicants in their pleadings that the Defendant Bank has made attempt to sell the property on 5 occasions and the sale did not materialize.

11. Thereafter, the Defendant Bank issued the impugned Sale Notice dated 04.10.2025, demanding a sum of **Rs.4,29,78,620.89 (Rupees Four Crores Twenty-Nine Lakhs Seventy-Eight Thousand Six Hundred Twenty and Eighty-Nine Paise only)** as on 03.10.2025, and proceeded to conduct the e-auction on 29.10.2025, wherein the secured asset was sold in favour of the 2nd Defendant. From perusal of the records produced by the Defendant Bank. I find that, the Bank has filed the original Sale Notice along with the Acknowledgement (AD) cards and returned postal covers as proof of service upon the Applicants, which are annexed at pages 21 to 30 of the typed set filed by the Bank. The Applicants have further contended that the Sale Notice was neither affixed on the secured asset nor published in the newspapers in the manner prescribed under the Security Interest (Enforcement) Rules, 2002. In rebuttal, the Defendant Bank has produced the original newspaper publications and only colour xerox copies of the photographs of affixture of Sale Notice dated 04.10.2025, which are annexed at pages 31 to 34 of the typed set filed by the Bank. The original photographs or the original digital images have not been produced. On perusal of the colour xerox copies of affixture of notice, this Tribunal finds that the date and time appearing in the photographs do not appear to be digitally embedded and prima facie appear to have been subsequently inserted. It is further noticed that the photograph at page No. 34 bears the "Gemini" logo/watermark which is an AI generated. The Defendant Bank has not furnished any explanation regarding the presence of the said logo/watermark, nor has it produced the original digital image or any contemporaneous electronic record to establish the authenticity of the photograph. In the absence of the original photographs and any satisfactory explanation regarding the presence of the "Gemini" logo/watermark, the authenticity and evidentiary value of the photographs relied upon by the Defendant Bank become doubtful. Consequently, this Tribunal is not inclined to place reliance upon the said photographs as satisfactory proof of compliance with the mandatory requirement of affixture under Rule 8(7) of the Security Interest (Enforcement) Rules, 2002. Further, on perusal of the Sale Notice, this Tribunal finds that the boundaries of the secured asset have not been mentioned. It is also noticed that the terms and conditions governing the auction have not been incorporated in the Sale Notice; instead, only a web link has been provided. The Applicants have specifically contended that the Sale Notice does not disclose the bid multiplier applicable to the auction. Upon verification of the Sale Notice, this contention appears to be correct, as the bid multiplier has not been mentioned therein. In the absence of the complete terms and conditions of the auction and the bid multiplier on record, this Tribunal is unable to verify whether the auction was conducted in a transparent manner and whether all the participants were made aware of the essential conditions governing the bidding process. The 1st Defendant Bank has failed to produce the relevant records to establish compliance with the statutory requirements. Therefore, the Defendant Bank have not followed the Rule 8 (7) of the Security Interest (Enforcement) Rules 2002, which clearly says that, *"(7) [Every notice of sale **shall be** affixed on the conspicuous part of the immovable property and the authorised officer shall upload the detailed terms and conditions of the sale, on the web- site of the secured creditor, which shall include;*

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

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

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

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

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

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

12. However, in the proceedings before this Tribunal, the Applicants were directed, by order dated 07.11.2025 vide I.A. No. 4416 of 2025, to comply with the conditional order by depositing a sum of **Rs.3,60,00,000/- (Rupees Three Crores Sixty Lakhs only)** in two instalments. It is also seen from the records that the Defendant Bank preferred an appeal before the Hon'ble DRAT, Chennai, challenging the said order dated 07.11.2025. I further find that the Hon'ble DRAT, Chennai, by order dated 08.05.2026 in M.A. (S.A.) No. 36 of 2026, directed this Tribunal to dispose of I.A. No. 4416 of 2025 immediately and to dispose of S.A. No. 899 of 2025 as expeditiously as possible, on merits and in accordance with law.

13. On scrutiny of the Valuation Report dated 24.07.2018 obtained by the Defendant Bank at the time of sanction of the loan, which has been produced by the Applicants along with their Additional Written Arguments (pages 27 to 37), and the Valuation Reports dated 09.06.2025 and 30.08.2025 (pages 35 to 65 of the Defendant Bank's typed set of papers), the following observations emerge:

Valuation Report dated 24.07.2018

- ✓ Market Value – Rs. 9,44,00,000/-
- ✓ Realizable Sale Value – Rs. 8,49,00,000/-
- ✓ Distress Sale Value – Rs. 7,55,00,000/-

Valuation Report dated 09.06.2025

- ✓ Market Value – Rs. 3,39,16,245/-
- ✓ Realizable Sale Value – Rs. 3,05,24,400/-
- ✓ Distress Sale Value – Rs. 2,88,28,600/-

Valuation Report dated 30.08.2025

- ✓ Market Value – Rs. 3,04,07,560/-
- ✓ Realizable Sale Value – Rs. 2,73,66,804/-
- ✓ Distress Sale Value – Rs. 2,58,46,426/-

From the above valuation reports, it is evident that there has been a substantial reduction in the valuation of the secured asset. The market value has drastically fallen from **Rs.9,44,00,000/- (Rupees Nine Crore Forty Four Lakh only) in the year 2018** to **Rs.3,39,16,245/- (Rupees Three Crore Thirty Nine Lakh Sixteen Thousand Two Hundred Forty Five only)** and thereafter to **Rs.3,04,07,560/- (Rupees Three Crore Four Lakh Seven Thousand Five Hundred Sixty only) in the year 2025**. Ordinarily, the value of immovable property appreciates over a period of time unless supported by cogent reasons justifying such depreciation. However, the Defendant Bank has not placed any material on record explaining the drastic reduction in the value of the secured asset. The Applicants have further contended that the earlier Valuation Report contains the valuation of the Effluent Treatment Plant, Solar Sprinkler Yard, and Sewerage Pumping Well with Motor, whereas the subsequent Valuation Reports dated 09.06.2025 and 30.08.2025 do not contain any valuation in respect of the said items. On scrutiny of the valuation reports filed by both the parties, I find that the allegation of the Applicants appears to be correct, as the subsequent valuation reports do not disclose any separate valuation in respect of the Effluent Treatment Plant, Solar Sprinkler Yard, and Sewerage Pumping Well with Motor, though such items find place in the earlier valuation report. The Defendant Bank has not offered any explanation for the omission of these components in the subsequent valuation reports. Further, although the Valuation Reports have been produced by the Defendant Bank, there is nothing on record to prove that the valuation was undertaken in consultation with the secured creditor. Moreover, on comparison of the property description, this Tribunal finds that the boundaries mentioned in the Valuation Reports are inconsistent with the boundaries described in the Demand Notice and the Possession Notice. The Defendant Bank has not furnished any explanation for these material discrepancies. In the absence of any satisfactory explanation for the drastic reduction in the market value, the omission to value the above components in the subsequent valuation reports, the inconsistencies in the description of the secured asset, and the absence of any material evidencing consultation with the secured creditor, this Tribunal is unable to place implicit reliance upon the Valuation Reports relied upon by the Defendant Bank. These irregularities create serious doubt regarding the correctness of the valuation exercise and indicate non-compliance with Rule 8(5) of the Security Interest (Enforcement) Rules, 2002 which 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".*

14. The contention of the 2nd Defendant/Auction Purchaser that he is a bona fide purchaser for valuable consideration has also been considered by this Tribunal. However, the defects and irregularities noticed in the Sale Notice and the valuation reports raise serious concerns regarding the determination of the reserve price and the Defendant Bank's compliance with Rule 8(5) of the Security Interest (Enforcement) Rules, 2002. It is well settled that where a sale is vitiated on account of non-compliance with the mandatory statutory provisions, the same cannot be sustained merely on the ground that the purchaser is a bona fide purchaser for value.

15. It is pertinent to note that the Applicants have complied with the conditional order passed by this Tribunal. It is also seen from the Reply Statement filed by the Defendant Bank that a sum of Rs.82,38,601/- remained outstanding as on 28.02.2026. Further, in order to demonstrate their bona fides and willingness to discharge the entire outstanding liability, the Applicants have obtained two Demand Drafts aggregating to Rs.85,00,000/- in favour of the Defendant Bank and have annexed copies of the same to their Additional Written Arguments. The Applicants have also undertaken to pay any further amount that may remain payable upon reconciliation of accounts by the Defendant Bank. This conduct of the Applicants indicates their bona fide intention to clear the entire outstanding dues.

16. Though the Applicant has challenged only the Sale Notice, the validity of the Sale Notice cannot be examined in isolation. The Sale Notice is the culmination of the measures initiated by the secured creditor under the SARFAESI Act. Therefore, this Tribunal is duty-bound to examine whether the foundational statutory requirements, including the classification of the loan account as a Non-Performing Asset, the issuance of the demand notice under Section 13(2), the measures taken under Section 13(4) of the Act, and the subsequent proceedings have been undertaken in strict compliance with the provisions of the SARFAESI Act and the Rules framed thereunder. Such an examination is undertaken not to adjudicate upon the validity of each preceding measure independently, but to determine whether the impugned Sale Notice is founded upon a lawful and valid statutory process.

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

In view of the above discussion, I find that though the Bank has proceeded under the SARFAESI Act and rules for recovery of money from the Applicants but they have not followed the procedure as mentioned in the SARFAESI Act & Rules strictly and failed to rebut the allegations made by the Applicants successfully. Therefore, this Tribunal holds that the Applicants are entitled to get the reliefs as prayed for in **SA No. 899/2025**

In the result,

(a) **S.A. No. 899 of 2025 is allowed**. Consequently, the Sale Notice dated 04.10.2025 is 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 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 is also directed to pay the interest at the rate of 4% of the sale price to the 1st Defendant from the date of payment of Sale price by the Auction Purchaser till the date of refund to the Auction Purchaser by the 1st Defendant within one month from the date of receipt of copy of the Order.

(d) The Applicants are also directed to pay the balance amount payable to the Defendant Bank within one month from the date of receipt of a copy of this Order. The Defendant Bank shall furnish a duly certified statement of account, after giving credit to all the amounts received from the Applicants, within one week from the date of receipt of a copy of this Order. Upon receipt of the said statement of account, the Applicants shall pay the balance amount, if any, payable to the Defendant Bank within one month thereafter.

(e) All the expenditures incurred in issuance of Sale Notice dated 04.10.2025 shall not be included in the loan account of the Applicants.

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

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 16th July 2026.

Sd/-
(SEEMA SINHA)
PRESIDING OFFICER

Uploaded on 24.07.2026