IN THE DEBTS RECOVERY TRIBUNAL-2, KERALA
AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated this the 30th day of July, 2026

SECURITIZATION APPLICATION No.662/2024

Between

1. Shyla S,
W/o.Ajidas C,
Neelakanda Vilasom,
Meleplavila Road,
Karakulam P.O.,
Thiruvananthapuram,
Pin – 695 564.

2. Ajidas C,
S/o.Christudas,
Neelakanda Vilasom,
Meleplavila Road,
Karakulam P.O.,
Thiruvananthapuram,
Pin – 695 564. …Applicants

And

1. Kerala Gramin Bank,
Peroorkada Branch,
Sangeeth P.O., Peroorkada,
Thiruvanthapuram - 695 005
Represented by its
Manager.

2. The Chief Manager/
Authorised Officer,
Kerala Gramin Bank,
KGB Towers,
Pravin Bakery Junction,
Thiruvananthapuram,
Pin – 695 033. …Defendants

This Securitization Application having been heard on 16.06.2026 in the presence of Advocate Ms. Marynithya K.J. for the applicants and Advocate Mr. Dileep Chandran for the defendants and stood over to this day for consideration, the Tribunal delivered the following:

FINAL ORDER

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

Brief facts of the case:

2.1 Initially, the SA is filed challenging the demand notice and the sale notice issued by the defendants in putting the secured asset for sale. But the sale did not materialize. Subsequently, the defendants took steps to take possession of the secured asset by filing application under Section 14 of the SARFAESI Act before the Chief Judicial Magistrate which is challenged in this proceeding by amendment.

2.2 It is claimed in the SA that the applicants availed loan from the defendant bank mortgaging the subject matter property. Due to non-repayment of the same, a demand notice dated 11.01.2023 was issued by the defendants calling the applicants to repay the same. No material is placed regarding repayment of claim amount after receipt of the demand notice and also there is no challenge to the measure taken u/s.13(4) of the SARFAESI Act within statutory period. The defendants issued a sale notice dated 12.08.2024 in putting the secured asset for sale. The applicants filed this SA challenging the Annexure A3 demand notice and Annexure A7 sale notice. It is claimed in the SA that secured interest created over the subject matter property was not duly registered in the Central Registry. Hence, the demand notice as well as the subsequent securitization measures are invalid. So also, the applicants claim that issuance of the sale notice is not as per the statutory requirement. Hence the sale notice is vitiated.

2.3 In the amended SA, the applicants claim that the proceedings u/s.14 of the SARFAESI Act and the order passed by the learned Chief Judicial Magistrate is illegal due to non-compliance of the statutory requirement. Hence, based upon illegal order, the Advocate Commissioner cannot take possession of the secured asset. Hence the applicants claim for setting aside the proceeding u/s.14 of the SARFAESI Act.

3. The defendant bank filed written statement denying the averments and claims that due to non-repayment of the loan, securitization proceeding was initiated by issuing the demand notice to the applicants u/s.13(2) of the SARFAESI Act, which is not disputed by the applicants. For non-repayment of the outstanding measure, steps u/s.13(4) of the SARFAESI Act was taken and possession of the secured asset was taken on 23.01.2024 by following all the statutory requirement. It is submitted that the secured asset was registered in the CERSAI Portal on 27.11.2015 showing the security interest as residential building and hence the claim of the applicant in this regard is totally baseless and unsustainable. There is no illegality in the proceeding u/s.14 of the SARFAESI Act. In absence of any illegality, the securitization proceeding may be dismissed.

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

(i) Whether the securitization proceeding including proceeding under Section 14 of the SARFAESI Act suffer from any illegality or irregularity to interdict with the same?

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

<u>FINDINGS</u>:

<u>Point Nos.(i) & (ii)</u>:

5. On receipt of the demand notice, outstanding amount claimed is not disputed by the applicants. So also, measure taken u/s.13(4) of the SARFAESI Act was also not challenged within the statutory period of 45 days from the date of accrual of the cause of action. All the statutory measures are duly followed.

6. The sale notice under challenge in this proceeding, Annexure A7 did not fructify. Hence, there is no necessity to consider the validity and legality of such sale notice in this SA. The cause of action in respect of such sale notice did not survive for adjudication and hence the applicants are not entitled to get any relief for the same.

7. Applicants have challenged the proceeding u/s.14 of the SARFAESI Act and also claimed that there is no proper registration of the secured asset in the CERSAI Portal. The defendants have produced relevant certificate showing registration of the secured asset showing the same as residential in the CERSAI

Portal prior to commencement of Chapter IV-A of the SARFAESI Act. Mere omission to say existence of any building does not render the registration in the Central Registry as invalid. The purpose of registration in the CERSAI Portal is to prevent misuse of creation of security interest in future in respect of secured asset which has nothing to do with description of the building over the same. Hence the contentions on this aspect by learned counsel for applicants has no force to accept.

8. The defendant bank initiated a proceeding u/s.14 of the SARFAESI Act before the CJM, Thiruvananthapuram and obtained an order to take possession of the secured asset. In the affidavit filed by the authorised officer, the details of the loan amount availed and outstanding amount in one loan as on 04.08.2024 and the outstanding amount in other loan as on 22.07.2024 are stated. Learned counsel for the applicants submitted that the aggregate amount as on the date of filing of the application on 11th December, 2024 is not stated. Hence the order of the CJM is vitiated due to non-compliance of the statutory requirement. It is also contended by the learned counsel for the applicants that the application is filed by the advocate who is not competent to file the application u/s.14

of the SARFAESI Act on behalf of the secured creditor. In absence of proper application, the order of the CJM is also vitiated.

9. On the other hand, the learned counsel for the defendants contended that the authorised officer has engaged an advocate to file the application u/s.14 of the SARFAESI Act, which cannot be said illegal. Further non-stating of aggregate amount did not cause any prejudice to the applicants. In absence of any material illegality, the order of the CJM cannot be said illegal. Hence, the SA may be dismissed.

10. Admittedly, the aggregate amount on the date of filing of application on 11th December, 2024 is not stated in the affidavit. Question arises whether the same causes any substantial prejudice to the applicant. In a judgment of the Hon'ble High Court of Andhra Pradesh dated 18.04.2022 in Writ Petition No.3950/2022 in the case of **Mogali Durga Devi & others v. Union of India & others**, similar question was raised and at paragraph 10 it is held as follows:-

> "*10. From the above, it is very clear that the respondent bank has clearly specified the total amount due as on 16.07.2021 including interest w.e.f. 17.07.2021, but failed to mention only about the outstanding amount due as on the date of filing of the application i.e. 27.01.2022. Mere non mentioning of the total outstanding*

> *amount due as on the date of filing of the application cannot be a ground to say that the respondent-bank has violated the mandatory requirements as provided in clauses (i) to (ix) of the proviso to sub-section (1) of Section 14 of the SARFAESI Act and also a ground to stall the entire proceedings initiated under Section 14 of the SARFAESI Act, such as taking of physical possession of property on 09.02.2022 and on 16.02.2022."*

It is held that, mere non-mentioning of aggregate amount due as on the date of application u/s.14 of the SARFAESI Act, cannot be a basis to set aside the proceeding u/s.14 of the SARFAESI Act, as the same did not cause any substantial prejudice to the applicant. In this case also, the defendant has stated the outstanding in the two loan accounts on 04.08.2024 and 22.07.2024 respectively. Such amount is not disputed by the applicant. Mere non-stating of aggregate amount on the date of filing of the application on 11.12.2024 cannot invalidate the order of CJM, which is purely administrative in nature.

11. Further the authorised officer is competent under the statute to file application u/s.14 of the SARFAESI Act on behalf of the secured creditor. Mere signing of the application by the advocate, being engaged by the authorised officer, cannot be said illegal and the contention on this aspect has no valid substance to accept the same. The applicants have failed to establish any

illegality or irregularity in the securitization proceeding to interdict and hence both the points are answered against the applicants.

Hence it is ordered:-

<u>O R D E R</u>

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

(Dictated to my Steno, corrected and pronounced by me in the open Tribunal on this the 30th day of July, 2026.)

[SOVAN KUMAR DASH]
PRESIDING OFFICER

Documents on the part of the applicants

Annexures	**Date**	**Particulars of documents**
A1	-	True copy of petition in O.P(MV)No.637/2022 filed before the MACT, Thiruvananthapuram.
A2	-	True copy of case status in O.P(MV)No.637/2022 on the file of Thiruvananthapuram MACT.
A3	11.01.2023	True copy of demand notice.
A4	10.02.2017	True copy of Order in I.A.No.560/2017 in O.S.No. 107/2017 on the file of Munsiff's Court, Nedumangad.
A5	25.03.2024	True copy of Judgment in WP(C) No.12060/2024 on the file of Hon'ble High Court of Kerala.
A6	30.03.2024	True copy of pay-in-slip relating to the payments of an amount of ₹10,000/- each in three loan accounts.
A7	12.08.2024	True copy of Sale notice.
A8	11.12.2024	True copy of affidavit and Section 14 application numbered as M.C.No.1422/2024 on the file of the CJM Court, Thiruvananthapuram.
A9	10.01.2025	True copy of Section 14 Order in M.C.No.1422/2024 on the file of the CJM Court, Thiruvananthapuram.
A10	24.01.2024	True copy of Notice issued by the Advocate Commissioner in M.C.No.1422/2024 on the file of the CJM Court, Thiruvananthapuram.

Documents on the part of the defendants

Annexures	Date	Particulars of documents
B1	07.11.2023	True copy of the demand notice issued u/s.13(2) of the SARFAESI Act.
B2	23.01.2024	True copy of possession notice.
B3	26.01.2024	True copy of paper publication of annexure B1 possession notice in Deepika daily.
B4	26.01.2024	True copy of the photograph of affixture of Annexure B1 possession notice in business line daily.
B5	23.01.2024	True copy of the photograph of affixture of Annexure B1 possession notice.
B6	27.11.2015	True copy of the CERSAI Report

PRESIDING OFFICER

IN THE DEBTS RECOVERY TRIBUNAL-2,
KERALA AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated the 30th July, 2026.

SA No.662/2024

Between

Shyla S,
W/o.Ajidas C,
Neelakanda Vilasom,
Meleplavila Road,
Karakulam P.O.,
Thiruvananthapuram,
Pin – 695 564
& Another. …Applicants

And

Kerala Gramin Bank,
Peroorkada Branch,
Sangeeth P.O.,
Peroorkada,
Thiruvanthapuram,
Pin -695 005
Represented by its
Manager.
& Another. …Defendants

F I N A L   O R D E R