Fair Order

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI

DATED THIS 31st DAY OF JULY 2026

PRESENT: SEEMA SINHA

[PR. DISTRICT & SESSIONS JUDGE - Retd]

PRESIDING OFFICER

SA No. 1108/2025

1. Mr. A. Vasakar
S/o Mr. Alagarsamy
Kaliyamman Kovil Street
Varusanadu Andipatti Taluk
Theni – 625 579 ..... **Applicant**

-Vs-

1. Canara Bank
Rep. by its Authorized Officer
Recovery Section, Regional Office
Periyakulam Road
Theni – 625 531 ..... **Defendant**

Appearance of Advocates:

M/s R. Ravichandran ---- Counsel for the Applicant
Mr. R. Pandivel ---- Counsel for the Defendant Bank

This Application was heard in the presence of M/s R. Ravichandran, Counsel for the Applicants and Mr. R. Pandivel, Counsel for the Defendant Bank in the aforesaid case and upon hearing the arguments of both sides

Counsels and having stood over for consideration till this day, this Tribunal delivered the following:

ORDER

1. This Application has been filed under Section 17(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 by the applicants praying that this Hon'ble Tribunal may be pleased to pass an order to set aside the Impugned Sale Notice dated 04.12.2025 and Impugned Order passed in Cr. M.P.3143 of 2025 dated 17.11.2025 by the Ld. Chief Judicial Magistrate, Theni under section 14 of the SARFAESI Act.

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

FACTS OF THE CASE

A. The Applicant had availed the following credit facilities from the Respondent Bank:

(i) Loan Account No. 1349285000001 – OCC Facility (Canara Vyapar) sanctioned on 27.08.2014 for a sum of Rs.6,10,000/- (Rupees six lakhs ten thousand only);

(ii) Loan Account No. 1349651019937 – Education Loan (Vidyasagar Scheme) sanctioned on 26.06.2015 for a sum of Rs. 13,65,000/- (Rupees thirteen lakhs sixty five thousand only) ; and

(iii) Loan Account No. 1349651019964 – Education Loan (Vidyasagar Scheme) sanctioned on 01.07.2016 for a sum of Rs. 3,50,000/- (Rupees three lakhs fifty thousand only).

B. The Applicant submitted that he had been regularly servicing the loan accounts from the income derived from his timber business. Even during the COVID-19 pandemic, the Applicant continued to repay the loan dues without substantial default, thereby demonstrating his bona fide intention to honour the financial commitments.

C. Further it is submitted that the Respondent Bank has also instituted O.A. No. 526 of 2024 before the Debts Recovery Tribunal. The records produced by the Bank in the said proceedings themselves establish that the Applicant had been regularly repaying the loan amounts over the years.

D. The Applicant submitted that the Respondent Bank issued a Demand Notice dated 22.01.2025 under Section 13(2) of the SARFAESI Act demanding payment of Rs.30,40,626.95/- (Rupees thirty lakhs forty thousand six hundred twenty six and ninety five paise only), inclusive of interest and other charges, within sixty days.

E. Further, it is submitted that the Demand Notice is defective and contrary to the provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, as it fails to disclose the exact date on which the loan accounts were classified as Non-Performing Assets (NPA). The notice also does not furnish a detailed statement of account, proper calculation of interest, penal interest, and other charges. Further, the penal interest claimed is excessive and contrary to the contractual terms as well as the applicable RBI Guidelines.

F. The Applicant submitted that the temporary default occurred only because the Applicant's son, who is also a guarantor to the loan, had invested substantial funds in establishing an IT Company abroad, resulting in temporary financial constraints. However, the Applicant subsequently remitted substantial lump sum payments towards the loan account with a genuine intention to regularise the account. The Respondent Bank failed to consider these payments before initiating coercive proceedings.

G. Thereafter, the Respondent Bank have issued a Possession Notice dated 07.05.2025 under Section 13(4) of the SARFAESI Act amounting to Rs. 31,57,454.99 **(Rupees thirty one lakhs fifty seven thousand four hundred fifty four and ninety nine thousand only)**. However, the said Possession Notice was never served upon the Applicant. It was neither affixed on the secured asset nor published in two leading newspapers in accordance with Rule 8 of the Security Interest **(Enforcement)** Rules, 2002. Aggrieved by the illegal possession proceedings, the Applicant has already challenged the Possession Notice dated 07.05.2025 by filing S.A. No. 449 of 2025, which is pending before this Hon'ble Tribunal.

H. The Applicant submitted that during the pendency of the said proceedings, the Respondent Bank filed Crl.M.P. No.3143 of 2025 under Section 14 of the SARFAESI Act before the Learned Chief Judicial Magistrate, Theni, and seeking assistance to obtain physical possession of the secured asset. By order dated 17.11.2025, the Learned Chief Judicial Magistrate, Theni allowed the petition and appointed an Advocate Commissioner to take physical possession of the secured asset. Pursuant thereto, the Advocate Commissioner issued notice dated 09.12.2025 fixing 23.12.2025 as the date for taking physical possession. Neither the order of the Learned Chief Judicial Magistrate nor the Advocate Commissioner's notice was served upon the Applicant.

I. The Applicant submitted that thereafter the Respondent Bank issued the impugned Sale Notice dated 04.12.2025, fixing the date of auction sale on 24.12.2025. The Sale Notice was never served upon him, nor was it affixed on the secured asset or published in accordance with the mandatory provisions of the Security Interest (Enforcement) Rules, 2002.

J. The Applicant further submits that the Respondent Bank has not obtained any proper valuation of the secured asset before fixing the reserve price, resulting in gross undervaluation of the property. Therefore, the entire proceedings culminating in the impugned Sale Notice are arbitrary, illegal, contrary to the provisions of the SARFAESI Act and the Rules, and are liable to be set aside.

GROUNDS

a) The impugned Sale Notice dated 04.12.2025, the order dated 17.11.2025 passed by the Learned Chief Judicial Magistrate, Theni in Crl.M.P. No.3143 of 2025, and the Advocate Commissioner's Notice dated 09.12.2025 are arbitrary, illegal, contrary to the provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, and are liable to be set aside.

b) The Respondent Bank failed to mention the exact date of classification of the loan account as a Non-Performing Asset (NPA) in the Demand Notice dated 22.01.2025, thereby violating Section 13(2) of the SARFAESI Act read with Rule 3 of the Security Interest (Enforcement) Rules, 2002.

c) The Demand Notice does not contain a complete statement of account or a proper break-up of the principal amount, interest, penal interest, and other charges, thereby depriving the Applicant of an effective opportunity to submit objections under Section 13(3A) of the Act.

d) The Respondent Bank has levied exorbitant interest and penal interest contrary to the contractual terms and the applicable RBI Guidelines, rendering the demand arbitrary and unsustainable.

e) The Applicant had been regularly repaying the loan accounts since 2014. Even the records produced by the Respondent Bank in O.A. No.526 of 2024 establish the Applicant's repayment history. The Bank failed to consider these material facts before initiating SARFAESI proceedings.

f) The temporary default occurred only due to genuine financial hardship arising from the Applicant's son's investment in a business venture abroad. The Applicant subsequently made substantial payments towards the loan account, which were ignored by the Respondent Bank.

g) The Possession Notice dated 07.05.2025 was neither served upon the Applicant nor affixed on the secured asset as mandated under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002.

h) The Respondent Bank failed to publish the Possession Notice in two leading newspapers within the prescribed period as required under Rule 8(2) of the Security Interest (Enforcement) Rules, 2002.

i) The proceedings initiated under Section 14 of the SARFAESI Act are vitiated as the application filed before the Learned Chief Judicial Magistrate did not satisfy the mandatory requirements prescribed under the Act, and material facts were suppressed.

j) The Learned Chief Judicial Magistrate failed to examine whether the mandatory requirements of Sections 13(2), 13(4), and Rule 8 of the Security Interest (Enforcement) Rules, 2002 had been complied with before granting assistance under Section 14 of the SARFAESI Act.

k) The Applicant was not served with any notice of the proceedings before the Learned Chief Judicial Magistrate, thereby violating the principles of natural justice.

l) The impugned Sale Notice dated 04.12.2025 was neither served upon the Applicant nor affixed on the secured asset, and the mandatory publication requirements under Rule 8(6) and Rule 9 of the Security Interest (Enforcement) Rules, 2002 were not complied with.

m) The Respondent Bank failed to obtain a proper valuation of the secured asset before fixing the reserve price, resulting in gross undervaluation and substantial prejudice to the Applicant.

n) The Respondent Bank failed to comply with the mandatory provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002 at every stage of the proceedings. Consequently, the entire SARFAESI proceedings, including the impugned Sale Notice, are illegal, arbitrary, and liable to be quashed.

DESCRIPTION OF PROPERTIES

1. All that piece and parcel of the land, shop and residential building together with Ground floor, 1st and 2nd floor building thereon situate at Theni District, Periyakulam Registration District, Kadamalaigundu Sub Registration District, Myladumparai Village, Varusanadu Panchayat, Varusanadu existing Ward No. 4, Veniyamman Kovil Street comprised in Natham S. No. 1580/4 as per U.D.R. scheme S. No. 1580/4-2 measuring 1650 sq.ft. of Vacant house site bearing Plot No. 68.

Boundaries on

East	-	Vacant sites of Ponram and Murugan
South	-	Vacant site of applicant
West	-	North-South Street
North	-	East-West Street

Within these boundaries measuring east-west on the north 24 feet, on the south 26 feet, north-south on the east 55 feet, on the west 77 feet totalling 1650 sq.ft. (153.29 Sq. Mtr) of vacant house site and right of pathway with other conventional right.

2. All that piece and parcel of the land, shop and residential building together with Ground floor, 1st and 2nd floor building thereon situate at Theni District, Periyakulam Registration District, Kadamalaigundu Sub Registration District, Myladumparai Village, Varusanadu Panchayat, Varusanadu existing Ward No. 4, Veniyamman Kovil Street comprised in Natham S. No. 549/6 as per U.D.R. scheme S. No. 549/6-13 measuring 291.5 Sq.ft of vacant house site bearing Plot No. 6.

Boundaries on

East	-	Vacant sites of Murugan
South	-	Vacant site of Seenidurai
West	-	North-South Street
North	-	Vacant site of applicant

Within these boundaries measuring east-west on the south 26.5 feet, north-south on the west 0 feet, on the east 22 feet totalling 291.5 sq.ft (27.08 sq. Mtr) of shaping as triangle and right of pathway with other conventional right.

The Applicant has submitted the following list of documents in support of their claim in the SARFAESI Act, which are as follows:

Sl. No.	Date	Description
1.	22.01.2025	Demand Notice under Sec. 13(2) of SARFAESI Act
2.	07.05.2025	Publication of Possession Notice
3.	17.11.2025	Impugned Order of Hon'ble CJM Theni in Crl. M.P. No. 3143/2025
4.	09.12.2025	Notice sent by Advocate Commissioner to the applicant
5.	04.12.2025	Impugned Sale Notice issued by the bank under Sec. 13(4) of SARFAESI Act.
6.	17.06.2025	Order passed by Hon'ble DRT Madurai in I.A. No. 2277/2025 in S.A. No. 449/2025
7.	18.10.2025	Receipt for payment of Rs. 1,00,000/-
8.	04.11.2025	Receipt for payment of Rs. 2,00,000/-

3. On the other hand, the Counsel for the 1st Defendant Bank appeared before this Tribunal and filed Vakalat, Typed set of papers & Reply Statement. The Applicants approached the Defendant Bank in respect of the one OCC facility and two Education Loans. The Defendant Bank strongly & vehemently denies the allegations under the headings "Facts of the Case" & "Grounds" of the SARFESI Application.

- The Defendant Bank submitted that the Demand Notice issued under Section 13(2) of the SARFAESI Act contains all the particulars required under law. The date of classification of the loan account as Non-Performing Asset (NPA), the description and measurements of the secured asset, and the total amount due have been clearly stated. Since there was no encumbrance over the secured asset, the question of mentioning the encumbrance status does not arise. It is not mandatory under the SARFAESI Act or the Security Interest (Enforcement) Rules, 2002, that the Demand Notice should be accompanied by a detailed statement of accounts or contain a break-up of interest, penal interest, and other charges. Mentioning the total amount payable is sufficient compliance with the statutory requirements.
- The Defendant Bank submitted that interest has been charged strictly in accordance with the terms of the loan agreement and the applicable guidelines issued by the Reserve Bank of India (RBI). The allegation that excessive or unauthorized interest has been charged is false, baseless, and denied.
- The Defendant Bank submitted that the Applicant has failed to repay the loan in accordance with the agreed terms and conditions and has committed persistent defaults. The Applicant is a chronic

and wilful defaulter. The allegation that there was only a minor default is incorrect. The reasons assigned by the Applicant for non-payment are neither genuine nor legally sustainable. Despite having sufficient means, the Applicant has deliberately failed to discharge the outstanding liability.

- The Defendant Bank submitted that there is no legal requirement to issue any separate prior intimation before issuing the Possession Notice or Sale Notice. Upon service of the Demand Notice under Section 13(2) of the SARFAESI Act and the Applicant's failure to discharge the liability within the statutory period, the Bank became entitled to initiate measures under Section 13(4). Accordingly, the Possession Notice and Sale Notice were issued, duly served upon the Applicant, affixed on the secured asset, and published in accordance with the provisions of the Act and the Rules.
- The Defendant Bank submitted that there is no statutory requirement to issue notice to the Applicant before filing an application under Section 14 of the SARFAESI Act before the learned Chief Judicial Magistrate (CJM). The allegation that the proceedings were conducted behind the Applicant's back is wholly incorrect. The learned CJM passed orders strictly in accordance with the provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002. Consequently, the order passed by the learned CJM and the notice issued by the Advocate Commissioner are lawful, valid, and sustainable in law.
- The Defendant Bank submitted that its actions do not suffer from any procedural irregularity or legal infirmity. The Demand Notice, Possession Notice, Sale Notice, and all consequential proceedings have been initiated strictly in accordance with the provisions of the

SARFAESI Act and the Rules. Therefore, the Applicant is not entitled to challenge the said proceedings.

- The Defendant Bank submitted that the application filed under Section 14 of the SARFAESI Act contains all material particulars required under law. The Bank has neither suppressed any material fact nor made any false statement. The affidavit filed in support of the application satisfies the statutory requirements, and the dates of the Demand Notice and Possession Notice have been correctly mentioned. The learned CJM has rightly passed the order under Section 14 of the Act.
- The Defendant Bank submitted that the reserve price was fixed on the basis of the valuation report obtained from an approved valuer. The secured asset has neither been undervalued nor arbitrarily valued. The allegation regarding undervaluation is therefore false and denied.
- The Defendant Bank submits that its actions are neither illegal, arbitrary, unreasonable, without jurisdiction, nor violative of the principles of natural justice.
- The Defendant Bank submits that the Sale Notice, the order passed by the learned Chief Judicial Magistrate, and the notice issued by the Advocate Commissioner are valid and are not liable to be set aside.
- The Defendant Bank submitted that the Demand Notice under Section 13(2) of the SARFAESI Act was duly issued and properly served upon the Applicant.
- The Defendant Bank submitted that symbolic possession of the secured asset was lawfully taken, and the Possession Notice was duly served upon the Applicant, affixed on the conspicuous part of the secured asset, and published within the prescribed time in one

Tamil daily newspaper and one English daily newspaper, in strict compliance with the statutory requirements.

- The Defendant Bank submitted that the Sale Notice was duly served upon the Applicant, affixed on the secured asset, and published in one Tamil daily newspaper and one English daily newspaper as required under the Rules.
- The Defendant Bank submits that the Applicant failed to comply with the conditional order passed by this Hon'ble Tribunal in the earlier SARFAESI Application in S.A. No. 449 of 2025. Having failed to comply with the said order, the Applicant is not entitled to seek equitable relief or agitate the present matter on merits.
- The Defendant Bank submitted that the Applicant did not submit any representation or objection in response to the Demand Notice issued under Section 13(2) of the SARFAESI Act. Such failure is fatal to the Applicant's challenge and disentitles him from raising belated objections.
- The Defendant Bank submitted that the Sale Notice challenged by the Applicant has become infructuous, as no sale was conducted pursuant thereto. In the event the Bank proposes to sell the secured asset in future, a fresh Sale Notice shall be issued in accordance with law. Consequently, the challenge to the earlier Sale Notice has become infructuous.
- The Defendant Bank submitted that the learned Chief Judicial Magistrate does not adjudicate the rights of the parties while exercising powers under Section 14 of the SARFAESI Act. The Magistrate merely renders administrative assistance to the secured creditor for taking physical possession of the secured asset. Therefore, the order passed under Section 14 is not liable to be set aside.

- The Defendant Bank submitted that the Applicant has not challenged the Possession Notice. In the absence of a challenge to the Possession Notice, the challenge to the order passed under Section 14 is not maintainable.
- The Defendant Bank submitted that there has been complete compliance with all the provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, in issuing the Demand Notice, taking symbolic possession, issuing the Possession Notice and Sale Notice, and obtaining the order under Section 14. The allegations regarding procedural irregularities are false, baseless, and legally unsustainable. If the Sale Notice or the order passed under Section 14 is interfered with, the Defendant Bank would suffer irreparable loss and hardship, whereas no prejudice would be caused to the Applicant. The balance of convenience is entirely in favour of the Defendant Bank.
- The Defendant Bank submitted that the Applicant has deliberately and wilfully failed to repay the outstanding dues despite having sufficient financial means. The sole intention of the Applicant is to protract the proceedings and defeat the lawful recovery proceedings initiated by the Defendant Bank. The Applicant cannot invoke the provisions of the SARFAESI Act to obstruct legitimate recovery proceedings. The outstanding amount represents public money, and the Applicant is bound to repay the same together with contractual interest and costs. A person seeking equitable relief must first discharge his lawful obligations. Therefore, in the interest of justice and to safeguard public funds, the present SARFAESI Application deserves to be dismissed with costs.

Typed set of Papers filed by the defendant Bank

Sl. No.	Date	Particulars
1.	22.01.2025	Original Demand Notice with Original AD Cards
2.	07.05.2025	Original Possession Notice with Original AD Cards
3.	07.05.2025	Possession Notice Original Paper Publication in English Daily "The New Indian Express" published on 09.05.2025
4.	07.05.2025	Possession Notice Original Paper Publication in Tamil Daily "Dhina Thanthi" published on 09.05.2025
5.	04.12.2025	Xerox copy of Sale Notice with Xerox copy of Postal Receipts & Xerox copy of AD Cards
6.	04.12.2025	Sale Notice Original Paper Publication in English Daily "The Hindu" Published on 05.12.2025
7.	04.12.2025	Sale Notice Original Paper Publication in Tamil Daily "Hindu Tamil" Published on 05.12.2025

4. On the basis of the above pleadings, the following issues have been framed:

(i) Whether actions initiated by the Respondent Bank in respect of the schedule mentioned property under the SARFAESI Act are illegal, void and contrary to the settled principles of Law?

(ii) Whether the applicant is entitled for relief as claimed for?

5. The present Securitisation Application has been filed under Section 17(1) of the SARFAESI Act challenging the Impugned Sale Notice dated 04.12.2025 fixing the Sale date on 24.12.2025 and order dated 17.11.2025 passed by the learned Chief Judicial Magistrate, Kanniyakumari District at Nagercoil in Crl.M.P. No.3143 of 2025 under Section 14 of the SARFAESI Act and seeking consequential reliefs.

6. The case of the Applicants is that they had availed OCC Canara Vyapar and two Education Loans from the Defendant Bank and were initially regular in repayment. According to them, due to applicant's son, who is also a guarantor to the loan, had travelled abroad and invested a substantial sum in establishing an IT company, they could not continue repayment regularly. They contend that the classification of the loan accounts as NPA was not in accordance with RBI guidelines, that the Bank had charged excessive interest, that the demand notice and possession notice were not duly served upon them, and that the learned Chief Judicial Magistrate passed the impugned order without properly appreciating the requirements of Section 14 of the SARFAESI Act, thereafter the Defendant Bank issued Sale Notice dated 04.12.2025 fixing the date of Sale on 24.12.2025 under section 13(4) of SARFAESI Act, 2002.

7. The Defendant Bank classified the account as NPA on 23.04.2022 and issued a Demand Notice dated 22.01.2025 under Section 13(2) of SARFAESI Act demanding a sum of Rs. 30,40,626.95/- (Rupees thirty lakhs forty thousand six hundred twenty six and ninety five paise only). I further find that the notice was duly served on the Applicants, as evidenced by the original postal receipts and AD cards **(Bank's typed set of papers, Pages 01-11)**, and that no proof has been filed by the applicants that they give any objection under Section 13(3A) of the Act.

8. Thereafter, the Bank issued the impugned Possession Notice dated 07.05.2025 under Section 13(4) of the SARFAESI Act. I find that the Possession Notice was duly served on the Applicants, as evidenced by the original postal receipt and AD cards **(Bank's typed set of papers, pages 12 to 20)**.

9. Further the Defendant Bank has published the Possession Notice in two leading newspapers I perused the documents filed by the Defendant Bank **(Bank's typed set of papers, pages 21 & 22)** and find that service of the notice, original newspaper publications have been duly proved. Further, I also perused the documents placed on record and find that there is no evidence to establish that the Possession Notice was affixed on the conspicuous part of the schedule-mentioned property as required under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 which says that ..

> "*Where the secured asset is an immovable property, the authorised 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 the absence of such proof, I hold that the Defendant Bank has only partly complied with the statutory requirements prescribed under the SARFAESI Act and the Rules framed thereunder.

10. Thereafter, the Defendant Bank had approached the Ld. Chief Judicial Magistrate, Theni and obtained the impugned order dated 17.11.2025 vide Crl.M.P. No. 3143/2025 and the Ld. CJM, Theni had appointed an Advocate Commissioner to take physical Possession of the schedule mentioned property.

11. The principal challenge in the present application is against the impugned Sale Notice date d 04.12.2025 fixing the sale on 24.12.2025 and the order passed by the learned Chief Judicial Magistrate under Section 14 of the SARFAESI Act. Moreover, the Defendant Bank in its reply statement, has stated that no sale was conducted pursuant to the said Sale Notice dated 04.12.2025 and, therefore, the said Sale Notice has become infructuous.

12. This Tribunal finds that the Defendant Bank has failed to produce any evidence establishing that the Possession Notice was affixed on the conspicuous part of the secured asset as mandated under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002. In the absence of such proof, this Tribunal holds that the Defendant Bank has not fully complied with the mandatory procedure prescribed under the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002. Under the above facts and circumstances of the case, this Tribunal find that the order passed by the CJM is not sustainable under eye of law.

In the result,

1. S.A. 1108/2025 is allowed. No costs
2. The Impugned order passed by the Ld. Chief Judicial Magistrate, Theni dated 17.11.2025 in Crl.M.P. No. 3143/2025 is hereby set aside.
3. All the expenditures incurred in obtaining the order passed by the Ld. Chief Judicial Magistrate, Theni dated 17.11.2025 in Crl. M.P. No. 3143/2025 shall not be included in the loan account of the Applicant.
4. The Defendant Bank is at liberty to initiate fresh action against the Applicant 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 KKN taken down, transcribed, typed by him, corrected and pronounced by me in the Open Court in this the 31st July, 2026).

Sd/-
(SEEMA SINHA)
PRESIDING OFFICER

Uploaded on 04.08.2026