IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 05th day of August, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

IA No.1480 of 2024 in S.A No.507 of 2024

1. M.S.K.Rameshraj,
S/o. Shri.Kumaraswamy,
Door No.188, Dr.Ambedkar Street,
Vallur Village and post,
Ponneri Taluk, Tiruvallur District

2. R.Kokila,
W/o. M.S.K.Rameshraj,
Door No.188, Dr.Ambedkar Street,
Vallur Village and post,
Ponneri Taluk, Tiruvallur District

3. R.Srinivasan,
S/o. Shri. Kumaraswamy,
Door No.188, Dr. Ambedkar Street,
Vallur Village and post,
Ponneri Taluk,
Tiruvallur District

-Vs-

1. Indian Overseas Bank,
Rep. by its General Manager,
Asset Recovery Management Branch,
Ground floor, Central Office Buildings,
763, Anna Salai,
Chennai-600 002

2. The Authorised Officer,
Indian Overseas Bank,
Asset Recovery Management Branch,
Ground floor, Central Office Buildings,
763, Anna Salai,
Chennai-600 002

3. Float Glass Centre,
130447, Mint Street,
Sowcarpet, Chennai-600013.

4. Mrs. Bernard Sahaya Mary,
139(old No.71),
East Madha Church Street,
Chennai- 600 013

Counsels on record / appeared:

Counsel for Petitioners	:	M/s Selvi George
Counsel for 1st & 2nd respondents	:	M/s P.V. Murlidhar
Counsel for 3rd respondent	:	Sh. M. Nirmalkumar
Counsel for 4th respondent	:	Sh. R. Srinivasan

: - ORDER ON IA NO. 1480 of 2025 - :

1. The Petitioners, who are applicants in SA have filed IA No.1480 of 2025 seeking for amendment in the prayer.

2. **Brief averments of the IA:**

2.1 The 1st petitioner herein has filed the IA on behalf of himself and also on behalf of the petitioners 2 & 3 herein who are the co-applicants in SA 507/2024. The SA has been filed praying to set aside the auction sale notice dated 29.07.2024 with regard to the properties covered under the said SA. The SA which was filed on 01.08.2024 came before the DRT-I on 08.08.2024 and status quo order was passed. However, when the matter came before the said Tribunal on 22.08.2024, 1st respondent submitted that pursuant to the sale notice dated 09.07.2024, the sale was held on 29.07.2024 and sale certificate was issued to respondents 4 & 3 herein on 02.08.2024 and 07.08.2024 respectively. Therefore, the Tribunal vacated the status quo order and leaving the issues kept open for adjudication.

2.2 It is submitted by the petitioners that in the case on hand the agricultural loans were availed as early as in August 2007. In view of various irregularities committed by the 1st respondent bank, particularly in repatriating the subsidy amount received from NABARD, the loan accounts became NPA. From the very beginning, the 1st respondent bank was having an eye on the mortgaged agricultural properties and it was keen on selling the properties. However the applicants herein successfully prevented such sale by resorting to various legal proceedings. The applicants have furnished the details of some of those proceedings in the main SA.

2.3 By resorting to those legal proceedings, the applicants have also got sanction to settle the loan accounts under one time settlement and paid various amounts. In fact, as early on 04.10.2021, the 1st respondent sanctioned OTS for Rs. 4,10,00,000/- and the applicants herein have paid more that the said amount.

2.4 In view of the above settlement, the 1st respondent bank did not pursue the O.A. No. 457 of 2016 filed by them against the applicants herein under the RDB Act and allowed the said case to be dismissed for default. The said application was dismissed as early on 15/12/2021 and in view of the settlement the 1st respondent did not take any steps to restore the application. The application under RDB Act was filed for the recovery of alleged debt on mortgage praying to recover the dues by selling the mortgaged assets. On dismissal of the above OA the respondents 1 & 2 have no legally enforceable debts to recover as against the applicants or against their properties.

2.5 It is further submitted that inspite of the above, the 1st respondent herein brought the secured assets of the applicant and alleges that they were sold in auction to the respondents 3 & 4 on 02.08.2024 and 27.08.2024. As already stated, the SA was filed on 01.08.2024 and sale hurriedly concluded by the respondents 1 & 2 in favour of the respondents 3 & 4 are to overreach the proceedings pending before this Tribunal. It is evident from the fact that the sale was concluded and the sale certificate was presented for registration within just four days from the date of sale.

2.6 The petitioners submit that the issuance of sale certificate is a subsequent development. Therefore it is necessary to amend the prayer in the above SA praying to set aside the sale held in favour of the respondents 3 and 4 herein. Furthermore subsequent to the filing of the above SA, the applicants herein came to know about the dismissal of OA 457 of 2016. The applicants also came to know that the creation of security interest over the secured asset was not registered with the Central Registry which is a mandatory precondition to enforce the security Interest under the SARFAESI Act. The applicants herein also came to know that the claim of the respondents 1& 2 are barred by limitation.

2.7 The petitioner further submits that the above facts would show that the respondents 1 & 2 have no valid debt to enforce the alleged security interest over the properties covered under the above SA. The right to property is a human right and such right is slightly being taken away by the respondents 1 & 2 apparently for their illegal gain. Therefore it has necessitated filing of the present petition to amend the application by incorporating the following paragraphs 29 A to 29 F after paragraph 29, as morefully detailed in the IA.

> *"paragraph 29 A"*
>
> *The applicants state that measure under Section 13 (4) of SARFAESI Act is a proceeding to recover the money due under mortgage by proceeding against the mortgage property. Article 62 of the Limitation Act, the limitation period prescribed for recovering the money due under mortgage is 12 years from the date of mortgage. Admittedly the mortgage over the secured assets was created on 04/01/2008. The measure taken by the respondents 1 & 2 bringing the mortgaged assets for sale by fixing the date of sale on 29/07/2024 is clearly barred by limitation.*
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> *29.B The loans availed by the applicants were agricultural loans and the secured assets were agricultural lands. Though in the land sold to the 3rd respondent the agricultural godown was constructed, it was not completed and the land did not lose the character of agricultural land. Further more it is settled law that the agricultural godown built to store agricultural produce is agricultural property. Infact in a collaterat proceeding an advocate commissioner was appointed to inspect and file a report on the nature of the land and the said advocate commissioner had filed a report stating that atleast one of the secured assets is secured land. The applicants reserve their right to file the report before this Hon'ble Tribunal along with the list of documents.*
>
> *29.C. The applicants submit that there is no legally enforceable debt. The applicants were sanctioned with one time settlement as early on 04/10/2021 for Rs. 4,10,00,000/- and as stated in ground xxix below, they have so far paid a sum of Rs.4,33,00,000/-.* In view of the said settlement and payment the 1st respondent did not pursue the application bearing O.A. No. 457 of 2016 filed by them against the applicants under the RDB Act and allowed the said case to be dismissed for default. The said application was dismissed as early on 15/12/202. In view of the settlement the 1st respondent did not take any steps to restore the application. The application under RDB Act was filed for the recovery of alleged debt on mortgage praying to recover the dues by selling the mortgaged*

assets. On dismissal of the above OA the respondents 1 & 2 have no legally enforceable debts to recover as against the applicants or against their properties.

29.D. The applicants submits that the alleged security interest created over the secured asset was not registered with the Central registry which is a mandatory precondition to enforce the security Interest under the SARFAESI Act. Under Section 26 D of SARFAESI Act, no secured creditor shall be entitled to enforce the right of enforcement of securities, unless the security interest created over the asset is registered with the Central Registry.

29 F. The SARFAESI application was filed on 01/08/2024 and the sale was hurriedly concluded infavour of the respondents 3 & 4 to overreach the proceedings pending before this Hon'ble Tribunal. It is evident from the fact that the sale was concluded and the sale certificate was presented for registration within just 4 days from the date of sale.

9. The applicant submits that inview of the above amendments it is also necessary to amend the grounds by incorporating the following additional grounds (xxx) to (xxxvii) after ground xxix.

(xxx) The measure under Section 13 (4) of SARFAESI Act is a proceeding to recover the money due under mortgage by proceeding against the mortgage property. The limitation period prescribed for recovering the money due under mortgage is 12 years from the date of mortgage as per Article 12 of the Limitation Act. Admittedly the mortgage over the secured assets was created on 04/01/2008. Therefore the measure taken by the respondents 1 & 2 bringing the mortgaged assets for sale by fixing the date of sale on 29/07/2024 is clearly barred by limitation.

xxxi. The loans availed by the applicants were agricultural loans and the secured assets were agricultural lands. Though in the land sold to the 3rd respondent the agricultural godown was constructed, it was not completed and the land did not lose the character of agricultural land. Furthermore, it is settled law that the agricultural godown built to store agricultural produce is agricultural property. In fact in a collateral proceeding an advocate commissioner was appointed to inspect and file a report on the nature of the land and the said advocate commissioner had filed a report stating that at least one of the secured assets is secured land. Hence the secured assets brought for sale vide sale notice dt. 09/07/2024 are hit by Section 31 (i) of the SARFAESI Act and hence the said sale notice issued by the respondents 1and 2 and the consequent sale are liable to be set aside.

xxxii. It is submitted that there that there is no legally enforceable debt to proceed as against the applicants and their properties. The applicants were sanctioned with one time settlement as early on 04/10/2021 for Rs. 4,10,00,000/- and as stated in ground xxix below, they have so far paid a sum of Rs.4,33,00,000/-. In view of the said settlement and payment the 1st respondent did not pursue the application bearing O.A. No. 457 of 2016 filed by them against the applicants under the RDB Act and allowed the said case to be dismissed for default. The said application was dismissed as early on 15/12/202. In view of the settlement the 1st respondent did not take any steps to restore the application. The application under RDB Act was filed for the recovery of alleged debt on mortgage praying to recover the dues by selling the mortgaged assets. On dismissal of the above OA the respondents 1 & 2 have no legally enforceable debt to recover as against the applicants or against their properties.

xxxiii. It is submitted that the dismissal of the application bearing No,457 of 2016 on 15/12/2021 operates as resjudicata forbearing the respondents 1 & 2 from proceeding under SARFAESI Act.

xxxiv. The alleged security interest created over the secured asset was not registered with the Central registry which is a mandatory precondition to enforce the security Interest under the SARFAESI Act. Under Section 26 D of SARFAESI Act, no secured creditor shall be entitled to enforce the right of enforcement of securities, unless the security interest created over the asset is registered with the Central Registry. Hence the proceedings initiated by the respondents 1 & 2 against the secured assets and the consequential sale are liable to be set aside.

xxxv. The respondents did not follow the procedure laid down under Rule 8 and 9 of the Security Interest Enforcement Rules 2002. Neither the notice of demand, nor possession notice or the sale notice were issued in accordance with the said rules and served on the applicants. The respondents 1 & 2 did not take any proper valuation before bringing the secured assets for sale and the upset price fixed was not in accordance with law.

xxxvi. The sale was not conducted in proper manner and the confirmation of sale is not in accordance with Law and hence the sale is liable to be set aside.

xxxvii. The SARFAESI application was filed on 01/08/2024 and the sale was hurriedly concluded by the respondents 1 & 2 in favour of respondents 3 & 4 to overreach the proceedings pending before this Hon'ble Tribunal. It is evident from the fact that the sale was concluded and the sale certificate was presented for registration within just 4 days from the date of sale.

2.8 It is necessary to amend paragraph no. 26 as paragraph 31 and include the following paragraph 32 after 11 amended paragraph No. 31.

> 32*. As already stated it is submitted that the respondents 1 & 2 have no legally enforceable debt to proceed against the applicants and their properties and hence the sale notice dt. 09/07/2024 and the consequent sale allegedly held on 29/07/2024 and the sale certificate dt. 07/08/2025 executed in favour of the 3rd respondent in respect of the property mentioned under Schedule -I of the application and the sale certificate dt. 02/08/2025 executed in favour of the 4th respondent in respect of the property mentioned under Schedule -II of the application are liable to be set aside.*

2.9 It is also necessary to amend the prayer by including the following sentence "and consequently set aside the sale certificates bearing no.6907 of 2024 dt.02/08/2024 executed in favour of the 4th respondent and the sale certificate dt.07/08/2024 in favour of the 3rd respondents on the file of Sub-Registrar, Ponneri after the words "with regard to the schedule property"

2.10 In the above circumstances, it is therefore prayed by the petitioners to allow the IA and permit petitioners to amend the SA accordingly.

3. **<u>Brief averments of counter filed by 2nd Respondent adopted by 1st Respondent:</u>**

3.1 The 1st respondent denied the averments made in the petition submitted that the Affidavit runs to several pages which is mere repetition of the averments made in the earlier paras. The bank had filed a detailed Counter and Typeset of documents in main SA No.507/2024 and prayed that the same may be read as part and parcel of this Counter Affidavit.

3.2 The respondent bank denied the averments made in Para No.3 of the Affidavit. As far as subsidy is concerned, it was returned to the CISS, (the Govt of India scheme for Capital Investment Subsidy Scheme) who were repeatedly sending letter for the return of the same, because the purpose for the sanctioning the subsidy was not fulfilled by the petitioners by way of completing the construction of the commercial godown.

3.3 At the same time, the bank had sanctioned additional facility and also sent a request letter to CISS for sanctioning the subsidy quoting that one of the entrepreneurs is a woman. This document was filed by the petitioner, in the Writ Proceedings in WP No.21019/2024 which was withdrawn by the petitioners recently. Hence, there is no question of committing irregularity by the bank.

3.4 The 1st respondent bank further submits that the petitioners had also filed a Crl. WP No.1306/2025, for getting direction for CBI enquiry and the same was dismissed by Hon'ble High Court of Madras on 25.06.2026. Though the bank has given various opportunities for settlement under OTS to the petitioners, the same was not properly utilized by them.

3.5 It is submitted that right from the beginning the petitioners were indulged in various proceedings in various forums, to stall the recovery proceedings and also filed CS No.228/2025, and the Interim Application was dismissed, as against which appeal was preferred to the Bench before Hon'ble High Court and that was also dismissed.

3.6 The respondent bank further submits that it is true that OA No.457/2016 was dismissed for default, subsequently the bank has filed a restoration application. It is incorrect to state that bank has not filed the restoration application when particularly the copies have been duly served to the petitioner's counsel. It is equally incorrect since OA was dismissed for default, the bank cannot proceed/ initiate SARFAESI proceedings.

3.7 It is incorrect to state that secured asset is an Agricultural one, and hence, Sec 31(i) is Bar. Before sanctioning the loan in 2007, the petitioners had obtained planning permission for constructing godown and the same was filed in the MODT. In SA proceedings, Advocate Commissioner was appointed who has filed his report, which will reveal the fact of Non Agricultural nature of the secured asset.

3.8 It is submitted that with regard to CERSAI registration, it was implemented on 31.03.2011. But the loan was sanctioned/ MODT was created on 04.01.2008, much earlier. Hence the question of CERSAI do not arise at all. The claim of the bank is barred by limitation is totally incorrect, the bank has initiated RDDBI and FI Act by way of filing OA, as well as initiated SARFAESI Proceedings well within the time. Hence, the question of limitation does not arise at all.

3.9 The 1st respondent bank submits that the sale certificate was issued 02.08.2024 and 07.08.2024 while the present Amendment application filed on 17.06.2025 is hopelessly barred by limitation. Moreover, amending the prayer in the SA will not arise and the petitioners has to challenge the same in the separate SA after paying the Court Fee.

3.10 The respondent bank is public sector bank dealing with the public money and not having any vested interest in selling the property as alleged by the petitioners which is perse defamatory and the bank reserves its right to take separation action against the petitioners. The petitioner has no prima facie case, or bonafide in the present petition. Only to protract and gain time the present petition is filed without any legal basis. Hence, it is prayed to dismiss the above petition with exemplary cost.

4. **Brief Averments of counter of 3rd Respondent:**

4.1 The 3rd respondent is the proprietrix of M/s. Float Glass Centre, who denies all the averments and allegations mentioned in the above application. It is submitted that the averments contained in paragraphs 1 to 2 are matters of record and pertain to the particulars of S.A. No. 507 of 2024. It is submitted that it is also a matter of record that the interim order of status quo granted by this Tribunal was subsequently vacated. Further, while vacating the said interim order, this Tribunal expressly kept all the issues arising in the SA open for adjudication on merits.

4.2 The averments contained in paragraphs 3 to 5 are emphatically denied as false, incorrect, misleading and contrary to the records. The allegation that the secured asset brought to sale by way of auction is an agricultural land is wholly baseless and is a blatant misrepresentation of facts. The said averments are devoid of any merit, are far from the truth, and have been made with the sole intention of misleading this Tribunal and obstructing the lawful recovery proceedings initiated by the Respondent. The Applicant has instituted multiple legal proceedings before different forums with the sole intention of obstructing and delaying the lawful recovery proceedings initiated by the Respondent. The Applicant has, in fact, candidly admitted the pendency of such multiple proceedings in the present application itself.

4.3 With regard to allegation contained in paragraph 6, it is submitted that the same is wholly misconceived and contrary to the records. The sale was conducted on 29.07.2024 and the sale was confirmed by sale confirmation letter dated 30.07.2024 itself. On the date of confirmation of sale and issuance of the Sale Certificate in favour of the 3rd Respondent, no interim order or stay restraining the Respondent Bank from proceeding with the sale was in force. Further the Sale Certificate was presented for registration on 07.08.2024. It is pertinent to note that the Applicants had not challenged the Sale Notice dated 09.07.2024 and the sale was therefore conducted strictly in accordance with law. The Applicant's attempt to portray the sale as having been conducted in undue haste is wholly untenable and is liable to be rejected. It is settled position of law that the confirmation of sale and issuance of Sale certificate by the Secured Creditor cannot be challenged independently without challenging the Sale Notice. The Applicant is purposely trying to create a false narrative that the sale was conducted despite challenge to the Sale Notice, while in fact the Applicant vide S.A. 507 of 2024 had challenged only the concluded Auction Sale dated 29.07.2024 and the SA was filed before this Tribunal on 01.08.2024. Further, no interim protection was awarded to the Applicants by this Tribunal.

4.4 It is further submitted that the petitioners are seeking to amend the SA by challenging the Sale Certificate dated 07.08.2024 on the plea that the Applicants subsequently came to know of the dismissal of O.A. No. 457 of 2016 for default and that the secured asset was allegedly not registered with the Central Registry. On the date of filing the SARFAESI Application, all these facts ought to have been within the knowledge of the Applicant. Further the dismissal of the O.A. No. 457 of 2016 has no bearing to the present SA. The plea that the Applicants came to know of the dismissal of O.A. No. 457 of 2016 or the alleged non-registration with the Central Registry only, or the alleged issue of limitation at a later point of time is an afterthought and is wholly irrelevant to the present SA.

4.5 The 3rd respondent submits that the averments contained in Paragraph 8, is wholly misconceived, unsupported by any material, and contrary to the records. The security interest has been validly created and enforced strictly in accordance with the provisions of the SARFAESI Act, 2002, and the Rules framed thereunder. The further allegation that Respondents No. 1 and 2 have violated the Applicants' human rights for alleged illegal gain is vague, frivolous, and unsupported by any legal or factual basis. Such unsubstantiated allegations are liable to be rejected.

4.6 The 3rd respondent submits that the Applicant's attempt to introduce proposed Paragraphs 29A to 29F, amend Paragraphs 26 to 31, and insert Paragraph 32 nearly one year after filing the SA is wholly malafide and liable to be rejected. The proposed amendment seeks to introduce new facts and grounds that were admittedly within the Applicants' knowledge at the time of filing but were never pleaded. It is well settled that a party cannot improve its case by raising new grounds at a belated stage. The proposed amendment is a clear afterthought intended to cure the deficiencies in the original pleadings and is therefore liable to be rejected. The Applicants are seeking to fundamentally alter the nature and scope of the SA by setting up a new case altogether, which is impermissible in law. Permitting such an amendment would cause serious prejudice to the Respondents, defeat the settled principles governing pleadings, and enable the Applicants to circumvent the consequences of their failure to raise the relevant pleas at the appropriate stage.

4.7 It is further submitted that the proposed Grounds xxx to xxxviii in Paragraph 9 are also liable to be rejected, as they are consequential to the impermissible additional pleadings. The proposed grounds introduce fresh legal contentions beyond the scope of the original Securitisation Application and are therefore liable to be rejected in limine.

4.8. It is submitted that the proposed amendment in Paragraph 11, seeking to include a prayer to set aside the Sale Certificate dated 07.08.2024 issued in favour of the 3rd respondent, is untenable and liable to be rejected. The Applicant has already challenged the SARFAESI measures, including the issuance of the Sale Certificate, in C.S. No. 282 of 2025 before the Hon'ble High Court of Judicature at Madras. The Applicant cannot, at this belated stage, be permitted to introduce such new pleadings and reliefs by way of amendment.

4.9 The proposed amendment is further intended to obstruct the delivery of possession of the secured asset to the 3rd respondent, who is a bona fide auction purchaser for valuable consideration and in whose favour valuable rights have already accrued pursuant to the confirmation of sale and issuance of the Sale Certificate. The 3rd respondent submits that he is a bonafide auction purchaser and was declared as the successful bidder on 29.07.2024, paid the sum of Rs. 6,31,16,000/- and upon making payment of the entire sum of Rs. 6,31,16,000/- as the sale consideration, the Respondent bank issued the sale certificate, and the same was registered as document No. 6981 of 2024 dated 07.08.2024 on the file of the Sub-Registrar, Ponneri and the company name has been mutated in the revenue records. Permitting such an amendment would cause serious prejudice to the 3rd Respondent. The proposed amendment is therefore liable to be rejected in limine with exemplary costs.

5. <u>Brief averments of counter of 4th Respondent:</u>

5.1 The petitioner is the 4th Respondent/Auction purchaser of the schedule mentioned property and prayed that the counter filed in the S.A.No.507 of 2025 may be treated as part and parcel of this counter for the better appreciation of facts.

5.2 The 4th respondent submits that she is the bonafide auction purchaser for a valid consideration of the subject property through the E-auction conducted by the Respondent Bank on 29.07.2024, paid the EMD on 26.07.2024 and was declared as successful bidder on 29th July 2024. The 4th respondent had paid the entire sale consideration on 01.08.2024 and the sale certificate has been issued in her favour on 02.08.2024 and the same was registered on 03.08.2024 as document No 6907 /2024 on the file of the Sub-Registrar, Ponneri and the 4th respondent's name has been mutated in the revenue records as lawful owner of the property. In the said circumstances, that the present IA in S.A.No.507 of 2024 is devoid of any merits and the same is liable to be dismissed in limine.

5.3 It is submitted that the Hon'ble Apex court in CELIR LLP vs. BAFNA MOTORS (MUMBAI)PVT.LTD & OTHERS has categorically held that the borrower losses the right of redemption once the Bank publishes the Sale Notice in the newspapers. In the instant case, the Respondent Bank published the Sale Notice in the Newspaper as early as on 13.07.2024 and the Applicant/borrower is estopped from raising any plea of one time settlement or payment of outstanding amount in view of the provision enshrined in sub section 8 of section 13 of the SA. Further, it is evident from the counter filed by the Respondent bank that the property was scheduled for auction for more than 10 times and the sale did not fructify for want of bidders, there is no grounds raised by the petitioners regarding the service of earlier Notices or the non-compliance of the procedures contemplated under the Sarfaesi Act and rules made thereunder. The Petitioner has not established as to how he is aggrieved and it is so wired still he is claiming the right of redemption, which is against the cannons of the dictum laid down by the Hon'ble Apex Court in CILAR Vs. Bafna Motors. The Applicant/borrower has lost the statutory right of redemption by tendering the outstanding amount payable before the publication of the sale notice and hence the question of repayment at this scenario and redemption does not arise.

5.4 The 4th respondent submits that the proposed amendment is not maintainable and is ex facie barred by limitation. The Applicant cannot be permitted to introduce new facts and grounds after completion of pleadings to improve the original case. Allowing the amendment would cause serious prejudice to this Respondent, a bona fide auction purchaser, and undermine the finality of proceedings under the SARFAESI Act. The application is therefore liable to be dismissed with costs.

5.5 It is further submitted that the present SA was filed challenging the confirmation of sale and not against the sale certificate issued in favour of this Respondents which gives rise to a separate cause of action and the petitioner has not chosen to challenge the sale notice and the sale certificate issued in favour of this Respondent by independent SA and the petitioner is estopped from raising any plea with respect to the sale certificate issued in favour of this 4th respondent /Auction purchaser. The Petitioner had abundant knowledge regarding the issuance of sale certificate in favour of this respondent, in fact the petitioner approached the revenue officials and prevented this respondent from mutating her name in the revenue records by stating pendency of the writ petition No.21019 of 2024. Immediately the 4th Respondent took steps to implead herself in the above stated writ petition and thereafter with a great difficulty this respondent was able to convince the revenue officials and the name of the 4th respondent has been mutated in the revenue records as lawful owner of the property.

5.6 The petitioner having knowledge regarding the issuance of sale certificate not chosen to challenge the same and the plea with respect to sale certificate is hit by doctrine of waiver and acquiescence. The actions of the petitioner would go to show that he is trying to mislead this Tribunal by suppressing the material facts.

5.7 The 4th respondent submits that W.P. No. 21019 of 2024 was dismissed as withdrawn by the Petitioner, and the Hon'ble Madras High Court declined to grant any liberty to the Petitioner to approach this Tribunal by invoking Section 14 of the Limitation Act. The Petitioner had challenged the confirmation of sale and filed I.A. No. 1409 of 2024 in S.A.

No. 507 of 2024 seeking stay of further proceedings pursuant to the e-auction sale dated 29.07.2024. This Tribunal initially granted an order of status quo, which was subsequently vacated upon the Respondent Bank filing its counter and supporting documents establishing a prima facie case. The Petitioner has not challenged the said order, and the same has attained finality.

5.8 It is submitted that the contention of the Petitioner that there is no legally enforceable debt due to the dismissal of O.A. No. 457 of 2016 for default is misconceived. The O.A. was not dismissed on merits, and the Respondent Bank has already filed a petition for restoration. The said ground is only an afterthought. The Petitioner failed to honour the OTS proposal despite acceptance by the Respondent Bank and breached the agreed terms. Hence, as per the default clause, the Respondent Bank is entitled to recover the entire outstanding amount, and the claim of petitioner that the is no legally recoverable debt is untenable.

5.9 It is submitted that the 4th Respondent participated in the e-auction conducted by the Respondent Bank pursuant to the sale publication dated 13.07.2024. The 4th Respondent remitted the EMD of Rs. 21,19,000/- on 26.07.2024 and, among 3–4 participants, emerged as the highest bidder by quoting Rs. 3,85,90,000/-. The sale was confirmed in favour of the 4th Respondent on 29.07.2024. As per the terms of sale, the 4th Respondent paid the balance sale consideration on 01.08.2024 in compliance with the SARFAESI Act and Rules, following which the sale certificate was issued in favour of the 4th Respondent on 02.08.2024 and registered as Document No. 6907/2024 before the Sub-Registrar, Ponneri, on 03.08.2024. The property documents were handed over to the 4th Respondent, the name of the 4th Respondent was mutated in the revenue records, and physical possession was delivered on 27.01.2026. The Petitioner approached this Tribunal only after completion of the sale process, and the first hearing took place on 08.08.2024, subsequent to the issuance and registration of the sale certificate in favour of the 4th Respondent.

5.10 The 4th respondent denied that lands are not agricultural in nature, the Petitioner ought to have sent a representation to the Notice U/s.13(2) of the SARFAESI Act, if at all the lands are agricultural in nature. The petitioner remained silent till the property is brought for sale for the 11th time and now this plea has been taken with a malafide intention to thwart the sale in favour of 4th respondent by hook or crook. In this regard, the 4th respondent relied on the judgment of ITC Vs Blue Coast Hotels, reported in 2018(4) SCALE 628 Para-38

5.11 In the case on hand, the petitioners are trying to establish the nature of land as agriculture by creating documents in order to obstruct speedy loan recovery, whereas the petitioners themselves got permission from the competent authority for conversion of these lands for construction of good down. The petitioner's averment that the secured assets are agricultural lands is firmly denied and petitioners cannot be permitted to agitate the same issue once again as same was decided by this Tribunal in S.A.No.295 of 2012 and hit by the doctrine of constructive resjudicata.

5.12 The Valuation Report of the Schedule Properties duly valued by the Certified Valuer of the Respondent Bank before conducting the e-auction sale is produced as documentary evidence as proof of compliance to Rule:8 (5) of SIE Rules. Mere perusal of the counter filed by the Respondent bank it is evident that the Respondent bank has meticulously followed the procedures contemplated under the Sarfaesi Act and the rules made thereunder in strict sense and it is also the duty of the Respondent Bank to protect the interest of the bonafide auction purchaser. The 4th respondent will be put to irreparable loss and hardship if this petition is allowed. 16.The instant petition dated 17th June 2025 is filed belatedly, for the sale certificate issued on 02.08.2024 which is hopelessly barred by limitation and the relief claimed in the petition is not maintainable and hence prayed for dismissal of IA.

Heard the Ld. Counsels for all parties and perused the records of the case.

6. It is a matter of record that the present SA No.507/2024 is filed on 05.08.2024 by the petitioners, who are applicants in SA, praying to set aside the Auction sale dated 29.07.2024 pursuant to Sale Notice dated 09.07.2024 with regard to the SA schedule mentioned properties. The SA was scrutinised by the Registry and numbered on 07.08.2024 and moved before Ld. PO, DRT-I (In-charge) on 08.08.2024. After hearing both

sides, at the request of respondent bank, the case was posted to 22.08.2024 for counter. Till then, the respondent bank was directed to maintain Status Quo.

7. On 22.08.2024, the auction purchasers also entered appearance and filed their vakalats. 1st & 2nd respondents filed counter after serving copy to the other side. After hearing both parties, Ld. PO, DRT-I (In-charge) passed a detailed note sheet order and vacated the order of status quo on 22.08.2024. The case was posted to next hearing date for filing counter by respondents 3 and 4.

8. Pursuant to the Sale Notice dated 09.07.2024, respondent bank had conducted the auction sale on 29.07.2024 and sale was confirmed in favour of respondents 3 and 4 in respect of Properties I and II respectively. The respondents have paid the sale consideration on 01.08.2024 and sale certificate was issued on 02.08.2024 and 07.08.2024 in favour of auction purchasers / respondents 4 and 3 respectively. The 3rd respondent registered the Sale Certificate vide Doc No.6981 of 2024 dated 07.08.2024 on the file of Sub-Registrar, Ponneri and 4th respondent registered the Sale Certificate vide Document No.6907/2024 dated 03.08.2024 on the file of Sub Registrar, Ponneri. Admittedly, there was no stay or status quo on the date of sale, issuance of sale certificate and registration of sale certificate.

9. During the pendency of SA, the petitioners have come up with IA No.1480/25, which was filed on 17.06.2025 praying to amend the prayer

in SA to "*consequently set aside the sale certificate bearing No.6907 of 2024 dated 02.08.2024 executed in favour of 4th respondent and sale certificate dated 07.08.2024 in favour of 3rd respondent on the file of Sub-Registrar, Ponneri*".

10. The 1st and 2nd Respondent bank and respondents 3 and 4 also have filed their respective counters to the IA.

11. It is manifest from the records that the Respondent Bank filed its counter and typed set of documents during the hearing on 21.08.2024, which contained the registered sale certificates issued in favour of the auction purchasers/Respondents 3 and 4 at pages 243 to 285. Despite receiving the said documents, the Petitioner waited until 17.06.2025 to file an application seeking amendment of the prayer in the S.A., after a delay of nearly 10 months. The Petitioner neither raised the additional grounds within the prescribed period of 45 days from the date of knowledge nor filed a separate S.A., though each action constitutes a distinct cause of action. The proposed amendment seeks to alter the nature and scope of the original S.A. and is therefore not maintainable.

12. During the course of arguments, Ld. Counsel for 1st and 2nd respondent bank relied on the judgment of Hon'ble Apex Court in the matter of ***Revajeetu Builders & Developers – Vs. – Narayanaswamy & Sons and others, Civil Appeal No.6921 of 2009 (Arising out of SLP (c) No.1552 of 2007)*** wherein it is categorically held that:

"67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

> ***(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?***
>
> ***(2) Whether the application for amendment is bonafide or malafide?***
>
> ***(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;***
>
> ***(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;***
>
> ***(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? and***
>
> ***(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application."***

13. This Tribunal, relying upon the judgment of the Hon'ble Supreme Court stated supra, concludes that the above I.A. is barred by limitation as on the date of its filing. The petitioners, despite having knowledge of the registration of the Sale Certificate on 22.08.2024, did not choose to file separate SA challenging the measure in accordance to law. Instead, they filed this amendment application only after a delay of 10 months,

without explaining the reason for dealy. This conduct clearly demonstrates that the application has been filed solely with the intention of stalling the recovery proceedings initiated by the respondent Bank, particularly after third-party rights and interests had already been created.

14. It is a matter of record that the petitioners/applicants were duly served with the Sale Notices pertaining to the subject sale. Despite having full knowledge thereof, they did not choose to challenge the Sale Notices at the relevant point of time. Instead, they remained silent, watched the proceedings from the sidelines, and allowed the sale process to attain finality. Only after the sale was conducted on 29.07.2024 have they chosen to file the present S.A. challenging the said sale. Such conduct clearly indicates that the petitioners allowed the sale proceedings to attain finality and have approached this Tribunal only after the sale was concluded. In this regard, the 4th respondent had relied on the judgment of ***Celir LLP v. Bafna Motors (Mumbai) Private Ltd. [(2024) 2 SCC 1],*** wherein the Hon'ble Supreme Court of India held that a borrower's right of redemption of a mortgage under Section 13(8) of the SARFAESI Act stands extinguished once the secured creditor issues a notice for the public auction of the secured asset.

15. Further, during the pendency of SA, the counsel for respondent bank filed memo dated 03.07.2026 enclosing copy of order of Hon'ble High Court in W.P. No.11417/2026, wherein the applicants have challenged the order of Ld. CJM in Crl.M.P. No.3875 of 2025 date

07.03.2026. In the said Writ Petition, the Hon'ble High Court has observed in the operative portion of the order as under:

> ***"8. In that view of the matter, we are inclined to dispose of this writ petition with the following orders:-***
>
> > ***(i) That there shall be a direction to the Debts Recovery Tribunal – III, Chennai, to decide S.A.No.507 of 2024 within a maximum period of three months from the date of receipt of a copy of this order.***
> >
> > ***(ii) The parties shall give full cooperation to the Debts Recovery Tribunal – III, Chennai, to complete the pleadings and to decide the same within the time frame stipulated hereinabove.***
> >
> > ***(iii) If any delaying tactics are adopted by any of the parties, very specifically by the petitioners herein, that could be ignored by the Debts Recovery Tribunal – III, Chennai, and it could proceed with the hearing and deciding the same as indicated above.***
> >
> > ***(iv) It is made clear that, once the issue is decided as to whether the lands in question are agricultural lands or not, apart from the any other issues raised in this SARFAESI application, depending upon the outcome of the decision to be taken by the Debts Recovery Tribunal – III, Chennai, further course of action could also be taken by the Debts Recovery Tribunal – III, Chennai, in the order.***
> >
> > ***(v) Till such final order is passed by the Debts Recovery Tribunal – III, Chennai, the present impugned order passed by the Chief Judicial Magistrate under Section***

14 of the SARFAESI Act, 2002, shall be kept in abeyance."

16. The petitioners / applicants, despite obtaining the order from Hon'ble High Court, failed to bring the same to the notice of this Tribunal. Instead, they chose to challenge the order passed under Section 14 before the Hon'ble High Court without availing the remedy of challenging the same before this Tribunal.

17. The petitioners, by their conduct, have clearly waived their right to challenge the sale proceedings at the appropriate stage. The present S.A., instituted only after the sale held on 29.07.2024, is manifestly vitiated by delay and laches and is nothing but an afterthought. Having allowed the respondent Bank and the successful auction purchasers to alter their position on the basis of the concluded sale, the petitioners are estopped from questioning the sale at this belated stage. The challenge in the IA, therefore deserves to be rejected.

18. Accordingly, IA No.1480/25 stands dismissed as barred by limitation and as not maintainable. No order as to costs.

Sd/-

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

(Dictated to PS, transcribed by her, corrected, signed and pronounced by me on this the 05th day of August, 2026)