Fair Order

सत्यमेव जयते

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI

DATED THIS 05th DAY OF AUGUST, 2026

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

SA No.426/2015

M.Ravichandran,
S/o. Mayandi Thevar,
Pothampatti P.O,
Usilampatti,
Madurai. --- Applicant

-Vs-

The Authorized officer,
Canara Bank,
Usilampatti,Madurai. --- Defendant Bank

Appearance of Advocates:
Mr.M.Ravichandran ***---- Counsel for the Applicant***
Mr.C.Jawahar Ravindran ***---- Counsel for the Defendant Bank***

This SARFAESI Application was heard in the presence of Counsels for the Applicant, Defendant Bank and fixed for passing final order before me and upon hearing the arguments of 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 Sec.17(1) of the SARFAESI Act 2002 by the Applicant praying that this Hon'ble Tribunal may be pleased to set aside the impugned Sale Notice dated 11.11.2015 in pursuance of the 13(2) and 13(4) Notices issued by the Respondent under the SARFAESI Act, 2002.

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

a) The Applicant submitted that, he approached the Respondent for availing a housing loan facility and after perusing all the records of the applicant, the Respondent sanctioned a sum of Rs.2,50,000/- in the year 2007. The rate of interest is 9.25% p.a. and the repayment period is ten years. The monthly instalment amount is Rs.3,200/- and the first instalment commenced from 16.09.2007.

b) It is further submitted that, for the aforesaid credit facility, the applicant had offered his immovable property, more fully described in the description of property, as security to the Respondent and had executed necessary documents to the Respondent. It is pertinent to point out at this juncture that at the time of availing the Housing Loan, the Respondent has obtained various signatures on printed and blank papers from the applicant. After availing the credit facility from the Respondent, the Applicant had paid a sum of Rs.3,50,000/- towards the loan amount on various dates, but the said payments were not given proper credit in the loan account of the applicant.

c) It is further submitted that, the applicant is a law graduate. After availing the housing loan from the Respondent, a matrimonial dispute arose between the applicant and his wife. The applicant's wife gave a police complaint and filed H.M.O.P. against the applicant, and the above said litigation prolonged for a long time and reached finality in April 2014. The applicant further submits that because of the matrimonial dispute, the applicant could not concentrate on his profession and lost income besides huge expenses to meet the litigation. So, the applicant could not repay the loan amount to the Respondent. Though the applicant explained his position to the Branch Manager of the Respondent, he was callous to his explanation.

d) It is further submitted that, as he could not repay the Housing Loan, the Respondent issued a demand notice under Section 13(2) of the SARFAESI Act. After the receipt of the Demand Notice, the applicant personally met the Branch Manager of the Respondent and requested him not to take any further action and promised him that he would regularise the loan account in due course. But the Respondent, with an aim to exert pressure on the applicant, issued a possession notice under Section 13(4) of the SARFAESI Act by which the Respondent has taken symbolic possession of the property described hereunder in the schedule. But the Respondent has failed to affix the possession notice on the outer door of the Secured Asset as contemplated under the SARFAESI Act and Rules.

e) It is further submitted that, due to the matrimonial dispute, the applicant lost income from 2007 to June 2014. The fact being so, the Respondent issued a sale notice dated 11.11.2015 thereby fixing the auction on 16.12.2015 between 11.30 A.M. and 11.30 A.M. The Applicant further submits that as per the sale notice dated 11.11.2015, the Respondent claimed that a sum of Rs.4,42,345/- was due from the applicant as on 05.11.2015. The Respondent has failed to observe the procedures while issuing notices under the SARFAESI Act. The Respondent has acted in an arbitrary manner. Hence, this appeal is prepared on the following grounds.

- The action of the Respondent/Bank is arbitrary in nature, and they have not followed the provisions of the SARFAESI Act and the Rules thereunder. The act of the Respondent is illegal, and therefore the alleged possession notice is liable to be set aside as illegal.

- The Respondent/Bank has not furnished the statement of account orally to enable the applicants to satisfy the liability due to the Respondent/Bank.

- The Respondent/Bank has not made paper publication of the notices issued under Sections 13(2) and 13(4) of the SARFAESI Act.

- The Respondent failed to mention the date of NPA in the Demand Notice.

- The Respondent has failed to obtain a proper valuation certificate for the secured asset before issuing the Sale Notice dated 11.11.2015.

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

- The Respondent failed to affix the Sale Notice dated 11.11.2015 on the outer door of the secured asset as contemplated under the SARFAESI Act and Rules.

Therefore, it is prayed that this Hon'ble Tribunal may be pleased to allow this Application.

DESCRIPTION OF PROPERTIES

All the parts and parcel of the property at Madurai District, Periyakulam Registration Usilampatti Sub Registration district, Usilampatti Union, Usilampatti Taluk, Pothampatti village, Natham S No.54/1 New Natham, S.No.486/31 vacant site with the extent of 0.01.17 Hec measuring East West 23 ft., North South 40 ft totaling 920 sft

Boundaries:

North: East West Street

East: House of Muthukaluva Thevar

South: House of Ramayee, wife of Namakodi

West: House of Ramuthayee, house of Thonthiammal

The Applicant has filed the following List of documents in support of his claim in the SA, which are as follows:

S.No.	Date	Description
1.	11.11.2015	Sale Notice
2.	06.11.2014	Payment Receipt for Rs.70,000/-
3.	25.07.2015	Payment Receipt for Rs.1,50,000/-

3. On the other hand, the Counsel for the Defendant Bank appeared before this Tribunal and filed Vakalat, Reply Statement, Typed Set & Typed Set – I in which he has submitted that, the Applicant availed a housing loan of Rs.2,50,000/- from the Respondent Bank on 16.03.2007 and executed necessary loan documents in favour of the Respondent Bank. He had agreed to pay interest at the rate of 9.25% per annum or such other rates as may be fixed by the Bank. He had agreed to repay the housing loan in 10 years in monthly instalments of Rs.3,200/- commencing from 16.09.2007. For availing the housing loan, the Applicant had created an equitable mortgage of his immovable property, more fully described in the SARFAESI Appeal, as security in favour of the Respondent Bank. The Applicant had executed necessary loan documents and a Mortgage Deed in favour of the Respondent Bank.

a) It is further submitted that, after availing the housing loan, the Applicant was very irregular in repaying the loan amount to the Respondent Bank. Hence, his loan account was classified as a Non-Performing Asset on 01.04.2012. A Demand Notice dated

31.01.2015 under Section 13(2) of the SARFAESI Act was issued to the Applicant to remit the outstanding amount of Rs.5,27,516/- within 60 days. Even after receiving the Demand Notice, the Applicant had failed to regularise the loan account. As the Applicant had failed to pay the dues to the Bank, on 13.06.2015, the Respondent Bank had issued a Possession Notice under Section 13(4) of the SARFAESI Act to the Applicant, and the Authorised Officer of the Bank took possession of the secured asset by complying with all the procedures laid down in the SARFAESI Act and the Security Interest (Enforcement) Rules. The Possession Notice was also affixed in a conspicuous place on the mortgaged property. Further, the Possession Notice was published in The Hindu English daily on 19.06.2015 and in the Dina Thanthi Tamil daily on 20.06.2015. Even after receiving the Possession Notice, the Applicant had failed to clear the dues to the Respondent Bank. Hence, the Respondent Bank proceeded to bring the mortgaged property for e-auction sale by adhering to the provisions and Rules of the SARFAESI Act. The e-auction Sale Notice dated 11.11.2015 was issued to the Applicant by fixing the sale date as 16.12.2015, and the same was received by him.

b) It is further submitted that, the e-auction sale was published in the English and Tamil newspapers as per the statutory Rules. The Sale Notice was published in The Hindu English daily on 12.11.2015 and in the Dina Thanthi Tamil daily on 13.11.2015. The Respondent Bank has initiated the SARFAESI proceedings by complying with all the statutory procedures and Rules.

c) It is further submitted that, the allegations stated in paragraph 2 of the Appeal are denied as false. It is also equally false to allege that the Applicant paid a sum of Rs.3,50,000/-, but the payments were not given credit in the loan account of the Applicant. The said allegations are totally false and imaginary.

d) It is further submitted that, the allegations stated in paragraph 4 of the Appeal are denied as false. In proof of affixing the Possession Notice on the secured asset, a copy of the photograph taken at the time of affixture of the Possession Notice on the secured asset is enclosed in the typed set of papers filed on the side of the Respondent. Further, the allegations stated in paragraph 5 of the Appeal Memorandum that the Respondent has failed to observe the procedures while issuing notices under the SARFAESI Act and that the Respondent has acted in an arbitrary manner are denied as false.

e) It is also submitted that, the allegations stated in paragraph 3 of the Grounds of Appeal are all denied as false. This Respondent submits that the Applicant was having the statement of account for his loan account, and he was well aware of the details of the loan account. The allegation in paragraph 4 of the Grounds of Appeal is denied as false. The said allegation is baseless and untrue. It is also false to allege that the interest charged by the Respondent Bank is not in accordance with the RBI guidelines. The allegations in paragraph 5 of the Grounds of Appeal are denied as false. In proof of making paper publication, copies of the newspapers are enclosed in the typed set of papers submitted on the side of the Respondent Bank. The allegations stated in paragraph 7 of the Grounds of Appeal are denied as false. The further allegation stated in paragraph 10 of the Grounds of Appeal is denied as false. A copy of the valuation certificate obtained from the valuer before issuing the Sale Notice is also enclosed in the typed set of papers. The allegation stated in paragraph 11 of the Grounds of Appeal that the Reserve Price fixed for the secured asset is very low when compared to the prevailing market price is denied as false. The said allegation is without any basis or proof. The allegations stated in paragraph 12 of the Grounds of Appeal are denied as false. A copy of the photograph taken after affixing the Sale Notice dated 11.11.2015 on the outer door of the secured asset at a conspicuous place is annexed in the typed set of papers. This Respondent submits that the allegations stated in the Grounds of Appeal are false and imaginary, and the same have to be proved by the Applicant before this Hon'ble Court through documentary evidence.

f) It is further submitted that, the Applicant is liable to repay the housing loan amount due to the Respondent Bank. It is to be noted that the Applicant has not denied his liability to repay the loan amount to the Respondent Bank. Hence, the Applicant has no case to contest. Just to drag on the recovery proceedings, the Applicant has filed this vexatious Appeal.

g) It is further submitted that, the Respondent Bank has initiated the SARFAESI proceedings by complying with all the procedures and Rules contemplated under the SARFAESI Act and the Security Interest (Enforcement) Rules. There is no violation of the statutory provisions or Rules committed by the Respondent Bank while initiating the SARFAESI action. Only after complying with all the statutory procedures has the Respondent Bank taken steps to initiate the SARFAESI proceedings for recovering the loan amount from the Applicant.

In view of the above facts, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above application with cost and thus render Justice.

Typed set of Papers filed by the Defendant Bank on 20.06.2018

SI.No.	Date	Particulars
1	31.01.2015	Demand Notice issued under Section 13(2) of the SARFAESI Act.
2	06.02.2015	Acknowledgment Card for the receipt of the Demand Notice.
3	13.06.2015	Possession Notice dated 13.06.2015 published in Tamil newspapers.
4	13.06.2015	Possession Notice dated 13.06.2015 published in English newspapers.
5	25.07.2015	Letter given by the Applicant to the Respondent Bank.
6	11.11.2015	Covering letter to the Sale Notice.
7	12.11.2015	Sale Notice dated 11.11.2015 published in a Tamil newspaper.
8	12.11.2015	Sale Notice dated 11.11.2015 published in The Hindu (English newspaper).
9	—	Photograph taken after affixing the Sale Notice.
10	02.10.2015	Valuation Report.

Typed set of Papers filed by the Defendant Bank on 29.05.2026

Sl. No.	Date	Particulars
1	06.02.2015	Acknowledgment Card for the receipt of the Demand Notice by the Applicant.
2	20.06.2015	Possession Notice published in Dina Thanthi Tamil newspaper.
3	19.06.2015	Possession Notice published in The Hindu English newspaper.
4	25.07.2015	Letter given by the Applicant to the Respondent Bank.
5	11.11.2015	Covering letter for serving the Sale Notice by the Respondent to the Applicant.
6	11.11.2015	E-auction Sale Notice issued by the Respondent to the Applicant.
7	12.11.2015	Sale Notice published in The Hindu English newspaper.
8	13.11.2015	Sale Notice published in Dina Thanthi Tamil newspaper.
9	—	Photograph taken after affixing the Sale Notice.
10	02.10.2015	Valuation Report.

4. *ON THE BASIS OF ABOVE PLEADINGSTHE POINT WHICH ARISES FOR CONSIDERATION IS:-*

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

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

5. Having heard the parties and after going through the entire documents available on records, I find that the Applicant has availed Housing loan for a sum of **Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only)** in 2007 from the Defendant Bank by mortgaging the Schedule Mentioned Property. It is further stated that, Initially, the Applicant was regular in repayment as agreed with Defendant Bank. It is admitted by the Applicant in his pleadings that due to matrimonial dispute and loss in income in his business, he was unable to repay loan dues to the Defendant Bank. Hence the Defendant Bank classified the loan account as NPA on 01.04.2012 and proceeded under SARFAESI Act.

6. Thereafter, the Defendant Bank issued a Demand Notice under Section 13(2) of the SARFAESI Act on 31.01.2015 to the borrower for a sum of **Rs.5,27,516/- (Rupees Five Lakh Twenty-Seven Thousand Five Hundred Sixteen Only)** as on 31.01.2015 and sent the same to the Applicant by registered post. I perused the documents filed by the Defendant Bank. The Bank has produced the Xerox copy of the Demand Notice and the original acknowledgment due card, which are annexed at pages 1 to 4 and page 1 of the Bank's typed set & typed set - 1 of papers. The Applicant himself has admitted that, upon receipt of the Demand Notice dated 31.01.2015, he requested the Defendant Bank to regularise the loan account. However, the Applicant has not filed any proof to establish that he had submitted a representation to the Defendant Bank under Section 13(3A) of the SARFAESI Act.

7. Thereafter, the Defendant Bank issued a Possession Notice dated 13.06.2015 under Section 13(4) of the SARFAESI Act for a sum of **Rs.5,51,759/- (Rupees Five Lakh Fifty-One Thousand Seven Hundred Fifty-Nine Only)** as on 11.06.2015. The Applicant contended that the Possession Notice was neither affixed on a conspicuous part of the secured asset nor published in accordance with law. On the other hand, the Defendant Bank, in its reply statement, contended that the Possession Notice was duly affixed and published in the English daily "The Hindu" on 19.06.2015 and the Tamil daily "Dina Thanthi" on 20.06.2015. On perusal of the documents, I find that the Defendant Bank has filed the original newspaper publications of the Possession Notice in compliance with Rule 8(2) of the Security Interest (Enforcement) Rules, 2002, which are annexed at pages 2 to 3 of the Defendant Bank's Typed Set–I. However, the Defendant Bank has failed to produce any photographs evidencing the affixture of the Possession Notice on a conspicuous part of the secured asset to successfully rebut the allegation of the Applicant. In view of the above irregularity regarding the affixture of the Possession Notice, the Possession Notice dated 13.06.2015 is not sustainable in the eye of law. Thus, I find that the Defendant Bank has not strictly followed the mandatory procedure prescribed under the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002 while issuing the Possession Notice to the Applicant. The Rule 8(1) of Security Interest Enforcement Rules, 2002, clearly says that

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

8. Thereafter, I find that the Defendant Bank issued a Sale Notice dated 11.11.2015 fixing the e-auction for sale of the secured asset for a sum of **Rs.4,42,345/- (Rupees Four Lakh Forty-Two Thousand Three Hundred Forty-Five Only)** as on 05.11.2015 and proceeded to sell the secured asset on 16.12.2015. The Applicant contended that the Sale Notice was not affixed on a conspicuous part of the secured asset in accordance with law. On the other hand, the Defendant Bank, in its reply statement, contended that the Sale Notice was duly affixed and published in the English daily "The Hindu" on 12.11.2015 and the Tamil daily "Dina Thanthi" on 13.11.2015. The Defendant Bank also contended that the Sale Notice was affixed on a conspicuous part of the secured asset. Upon perusal of the documents, I find that the Defendant Bank has filed the original newspaper publications of the Sale Notice in compliance with Rule 8(2) of the Security Interest (Enforcement) Rules, 2002, which are annexed at pages 11 to 12 of the Defendant Bank's Typed Set–I. The Defendant Bank has also produced photographs purportedly evidencing the affixture of the Sale Notice on a conspicuous part of the secured asset. However, the photographs annexed to Typed Set–I do not disclose the date on which the Sale Notice was affixed on the conspicuous part of the schedule property. Consequently, the Defendant Bank has failed to establish that the affixture of the Sale Notice was carried out in accordance with the mandatory procedure prescribed under the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002. Therefore, the Defendant Bank has not followed the Rule 8(7) of the Security Interest (Enforcement) Rules 2002, which clearly says that,

"Rule 8 (7) in the Security Interest (Enforcement) Rules, 2002:-

"(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.]"

9. Further, the contention of the Applicant is that the Defendant Bank failed to obtain a proper valuation report for the secured asset before issuing the Sale Notice dated 11.11.2015 and that the reserve price fixed for the secured asset was very low compared to the prevailing market value. On the other hand, the Defendant Bank, in its reply statement, contended that it had obtained a valuation report from an approved valuer before issuing the Sale Notice. However, the Applicant has not produced any evidence or supporting document, such as a valuation report, to substantiate this contention. Hence, the contention of the Applicant is untenable.

10. I also find that during the pendency of the case, this Tribunal granted a conditional stay order dated 07.12.2015, directing the Applicant to pay a sum of **Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand only)** in two instalments. The Applicant has filed proof of payment showing compliance with the conditional order and has thereby demonstrated his bona fide.

11. In view of the above discussion, I find that the Defendant Bank has proceeded under the SARFAESI Act and rules for recovery of money from the Applicant but they have not followed the procedure as mentioned in the SARFAESI Act & Rules strictly. Moreover, the Applicant is no doubt being defaulter is 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 borrower by invoking the SARFAESI Act and without the intervention of any Court. But, it shall not allow the Bank to sell the property of the Applicant without following the due process of law strictly, because property is the constitutional right of an individual and hence, Bank cannot sell the property without following the mandatory provisions of Act & Rules. In view of the above facts and circumstances of the case, I find that the Defendant Bank has not followed the due procedures for recovery of the loan amount under SARFAESI Act. As such, I find merit in the above SARFAESI Application. Therefore, this Tribunal holds that the Applicant is entitled to get the reliefs as prayed for in SA No. **426/2015**.

In the result,

a) **SA No.426/2015** is allowed. The Impugned Sale Notice dated 11.11.2015 is hereby set aside.

b) All the expenditures incurred in issuance of Possession Notice dated 13.06.2015 and Sale Notice dated 11.11.2015 shall not be included in the loan account of the Applicant.

c) 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 LDC (KK), taken down, transcribed, typed by him, corrected and pronounced by me, in the Open Court in this the 05th August 2026

Sd/-
(SEEMA SINHA)
PRESIDING OFFICER

Uploaded on 11.08.2026