IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 10th day of August, 2026

PRESENT: **SHRI SHARANG DHAR UPADHYAY**
Presiding Officer

NDN(SA) No.3998 of 2023

Vasantha. V
W/o Late A.V.K. Venkatachalam
15, Gandhi Street, Nellikuppam
Nellikuppam Bazaar, Cuddalore
Tamil Nadu – 607 105 …**Applicant**

Versus

Punjab National Bank
Represented by its Authorised Officer
Circle – Sastra Centre
N0.769, Second Floor
Spencer Plaza, Anna Salai
Chennai – 600 002 **…Respondent**

ORDERS ON MAINTAINABILITY

1. This case is placed before the Bench for hearing on the question of maintainability.

2. The objection of the Registry is:

"Registry sought clarification with regard to SA filed with delay. Exceed 45 days of limitations."

3. In reply, the applicant submitted that:

"In this regard counsel has stated that "the applicant did not have knowledge about the Sale Notice or the Sale of the property, until the Manager of the Respondent Bank intimated the same vide e-mail dated 11.12.2023. Further, the applicant is not a guarantor nor a borrower, as explained in para (d) at Page No.5 of the Application Book. It is the applicant's father who has signed the Deed of Guarantee. The Applicant has thus no notice of the sale

and hence the period of limitation begins only from 11.12.2023 which is the date of intimation by the respondent bank. Thus, limitation beings only from 11.12.2023 and hence the present petition is well within the limitation. Therefore, a separate petition for condonation of delay does not arise. Hence, the present petition may be numbered. If the Registry is not satisfied the above matter may be posted before Hon'ble PO for maintainability. SA filed on 28.12.2023 and court fee paid of Rs.250/- (deficit fee). Remaining court fee paid on 5.1.2024. Hence, limitation starts from the date of deposit of full court fees or not."

4. The applicant filed his notes on submissions along with judgments relied upon stating therein that:

(a) The present SA has been filed challenging the Sale Notice dated 03.08.2023 resulting in the Sale Certificate dated 03.10.2023, registered as Doc. No.3632 of 2023 dated 25.10.2023. It is stated that the applicant is neither a borrower nor a guarantor. The applicant's daughter Mrs. K. Suryakala had availed credit facilities which appears have been defaulted. The said loan was secured by the mortgage of the property belonging to Mr. A.V.K. Venkatasalam, who is the husband and father of the borrower.

(b) It appears that the respondent bank had initiated SARFAESI proceedings for the default committed by Mrs. K. Suryakala. The said Mr. A.V.K. Venkatasalam, the applicant's husband and owner of the property passed away on 07.01.2018. It is the specific case that the sale notice dated 03.08.2023 bringign to sale the property belonging to Mr. A.V.K. Venkatasalam was not served on me since I am one of the legal heir of Mr. A.V.K. Venkatasalam. The sale was conducted and the 2nd respondent was declared as the highest bidder pursuant to which e-auction sale held on 02.11.2023 culminated into sale dated 17.11.2023. The Branch Manager of the respondent bank informed the borrower about the sale on 11.12.2023, who in turn informed me about the sale pursuant to which I had filed the present SA Dy No.3998 of 2023 on 26.12.2023.

(c) The present SA is filed within 45 days from the date of knowledge i.e., on 11.12.2023 and hence the SA is within time. The Registry raised objection on the point of limitation stating that the limitation beings only from the date of the sale notice. However, a reply was submitted on 3.1.2024 explaining the aforesaid facts and circumstances stating that limitation should be reckoned from the date of knowledge of the sale / sale notice and not from the date of auction.

(d) It is reiterated that the applicant is not a borrower or a guarantor but only the legal heir of the guarantor who passed away on 07.01.2018, therefore the bank ought to have issued a notice to the applicant. Therefore the applicant is not aware of the sale notice dated 3.8.2023. Therefore the limitation has to be calculated only from the date of the knowledge of the sale notice i.e., 11.12.2023. Reliance is placed on the judgment of the Hon'ble Calcutta High Court in W.P. No.18157 of 2022.

(e) Registry cannot raise the plea of limitation and refuse to number the same since the same is judicial function. The registry ought to have numbered the petition for the Hon'ble Tribunal to adjudicate on the dispute. In this regard reliance is placed on judgment of the Hon'ble Supreme Court in **P. Surendran Vs. State by Inspect of Police reported in (2019) 9 SCC 154** and the judgment of the **Hon'ble High Court of Madras in CRP (MD)**

No.915/2020 in re Selvaraj vs. Koodankulam Nuclear Power Plant India Limited.

5. The respondent filed in counter on the question of maintainability stating as under.

(a) The 1st respondent bank further submits that the applicant had filed the present S.A before this Hon'ble Tribunal to quash and set aside the sale notice dated 13.10.2023 scheduling the auction on 02.11.2023

(b) The Applicant claimed that she is a widow and wife of Late. A.V.K. Venkatachalam. The Respondent is a Secured Creditor Bank. The Applicant had filed the present SARFAESI Application before this Tribunal only on 26.12.2023 which is expressly barred limitation under the SARFAESI Act.

(c) It is clearly admitted by the Applicant that the applicants daughter namely Mrs. K. Suriyakala availed loan facilities under the name and style of M/s. Sri Suriyakala Exports and the applicant's daughter is a sole proprietor of the above said firm. The applicant further submits that the applicant's husband and borrower's father namely Mr. A.V.K. Venkatachalam had executed a memorandum of the deposit of title deeds with the respondent bank**.** Further the said proprietor of the firm and applicant's daughter namely Mrs. K. Suriyakala deposited all the original title documents with the bank along with letter dated 10.09.2012**.** Hence it is crystal clear that the said M/s. SriSuriyakala

Exports, Rep. by its Proprietor Mrs. R. Suriyakala availed loan facilities with the respondent bank and the father of the borrower namely Mr. A.V.K. Venkatachalam executed necessary MoDs to infavour of the 1st Respondent Bank.

(d) The Respondent further submits that the said M/s. SriSuriyakala Exports, Rep. by its Proprietor Mrs. R. Suriyakala failed to repay the said loan amounts as per the terms and conditions of sanction letter issued the Respondent Bank. The respondent bank had issued recall letters and recalling the loan but the borrower/guarantor failed to repay the loan amount. I further submit that hence without no other option due to default of installment / interest /principal debt, the loan account have been classified as Non Performing Assets as per the guidelines issued by the Reserve Bank of India by the respondent bank.

(e) The Respondent bank had issued Demand Notice in respect of the above said loan account by R.P.A.D to the said borrower and as well as guarantor who is a father of Mrs. K. Suriyakala. The applicant admitted that the said Demand Notice was duly served on them.

(f) The respondent further submit that even after issuance of the Demand Notice the principal borrower and as well as guarantors are continuing their default in repaying the loan amount. Hence the Respondent Bank issued a symbolic possession notice and taken symbolic possession of the secured assets. The said Possession Notice was affixed on the outer door and conspicuous place of the secured asset on the same day. The said Possession Notice was also sent by R.P.A.D to the applicant herein. The Respondent bank had published the said Possession Notice in English Daily and Vernacular language and complied the statutory provisions under the SARFAESI Act and Rules. The petitioner/applicant also duly admitted for service of the Possession Notice in his SARFAESI Application.

(g) The respondent further submit that the applicant and her family members are very well aware of the above said actions taken by the Respondent Bank under the SARFAESI Act. More particularly the borrower namely Mrs. K. Suriyakala who is a Proprietor of M/s. SriSuriyakala Exports aware of all the proceedings. But they never chosen to repay the loan amount, hence the respondent had taken valuation report in respect of the secured asset.

(h) The respondent further submits that they had issued E-Auction Sale Notice dated 13.10.2023 and fixed E-Auction on 02.11.2023. The said E-Auction Sale Notice was duly published in the English Daily and vernacular language. The said Sale Notice also sent to the applicants by R.P.A.D. The respondent further submit that the applicant and her family members are very well aware of the above said actions taken by the 1st Respondent Bank under the SARFAESI. The Respondent Bank further submit that even the applicant and her daughter namely Mrs. K. Suriyakala are continuing their default in repaying the due amount.

Hence the schedule mentioned secured asset was sold on 02.11.2023 for a sum of Rs.73,00,000/- to in favour of one Mohameed Rizwan by way public auction. The auction purchaser had paid the entire bid amount on 17.11.2023 and Sale Certificate also issued in his favour.

(i) The Applicant has not chosen to challenge above said SARFAESI proceedings initiated by the Respondent Bank in time. The 1st respondent further submits that the respondent bank has followed all the mandatory procedures while issuing the E-Auction Sale Notice dated 13.10.2023 against the Borrower. The borrower namely Mrs. K. Suriyakala is daughter of applicant and as well as one of legal heirs of Late. A.V.K. Venkatachalam. The said Mrs. K. Suriyakala, Proprietor of M/s. SriSuriyakala Exports aware of all the proceedings initiated by the Respondent Bank under the SARFAESI Act. It is admitted by the applicant that they received 13(2) and 13(4) notices. But they denied receipt of E-Auction Sale Notice. The applicant's contention is only a false allegation.

(j) The Respondent Bank had given opportunity to redeem the property to the applicant but the applicant's intention is only to delay and drag the proceedings without paying entire due amount. The applicant got knowledge about the E-Auction Sale Notice**.** The applicant and the legal heirs of Late A.V.K. Venkatachalam have not chosen to challenge above said SARFAESI proceedings initiated by the Respondent Bank within a time prescribed under the SARFAESI Act.

Which would clearly shows that the applicant's intention is only to delay and drag the proceedings.

(k) The main contentions of the applicant is that E-Auction Sale Notice is not served to the legal heirs of deceased mortgagor namely Mr. A.V.K. Venkatachalam. It is seen from the Legal heirs certificate issued by the Tahsildar, PanrutiTaluk, the one of the Legal Heirs is Mr. K. Suriyakala, Daughter of Late. A.V.K. Venkatachalam. The said Mrs. Suriyakala and another legal heir namely Mr. Saravanan, Son of Late. A.V.K. Venkatachalam are not made a party to the present SA. The wife of the Late A.V.K. Venkatachalam alone filed the present SA and challenging the SARFAESI proceedings initiated by the 1st Respondent Bank. Which would clearly shows that other legal heirs are already having knowledge about the SARFAESI proceedings for that reason alone they have not made a party to this SA proceedings.

(l) The 1st respondent relies upon the judgment of the Hon'ble Supreme Court in Kishorilal (D) Thru. LRs & Ors. Vs. Gopal & Ors. In Civil Appeal No.172 of 2026 wherein it is held where the estate of a deceased party is sufficiently represented by his legal heirs on record, proceedings would not abate if some of the heirs are left out. In the present case the notice was served to one of the Legal Heirs namely Mrs. K. Suriyakala, Proprietor of M/s. SriSuriyakala Exports and she is aware of the SARFAESI proceedings initiated by the 1st Respondent Bank. One of the legal heirs of Late.A.V.K.Venkatachalam namely Mr.

K. Suriyakala has knowledge about the entire proceedings and that is the reason she has been made a party in this SA.

(m) It has been held by the Hon'ble Supreme Court the 45-day deadline is mandatory. Consequently, the Debts Recovery Tribunal (DRT) lacks the power to condone any delay beyond this statutory period. The Hon'ble Supreme Court and Appellate Authorities have strictly enforced this limitation period to ensure the swift enforcement of security interests.

(n) The 1st respondent relies upon the following judgments:

(i) ***Bank of Baroda vs. Parasaadilal Tursiram Sheetgrah Pvt. Ltd.***

(ii) ***M. Manonmani Vs. Canara Bank*** **(DRT Chennai)**:

(iii) ***JJ Fuels and Ors. Vs. Shriram City Union Finance Ltd.*** **(DRT Chennai)**:

(o) The Hon'ble Supreme Court in **CELIR Vs BAFNA MOTORS**, has held that a borrower's right to redeem a mortgaged property is extinguished upon the publication of the auction sale notice, not just at the sale confirmation, bolstering auction integrity and protecting auction purchasers from last-minute redemption attempts.

(p) The respondent bank has complied with all the procedures under the SARFAESI Act and Rules. Hence the applicant is not entitled to any reliefs as prayed for and the application filed by the applicant is not maintainable in the eyes of law and liable to be dismissed. It is apparent that the application filed by the applicant is vexatious and merely to delay and drag the proceedings.

(q) It is therefore prayed that this Tribunal may be pleased to dismiss the SA Diary Number namely NDN No.3998 of 2023 against the 1st respondent bank with an exemplary cost.

6. Learned counsel for both sides were heard on the preliminary issue of limitation.

7. The only question that arises for consideration at this stage is whether the present Securitisation Application is maintainable in view of the statutory period of limitation prescribed under Section 17 of the SARFAESI Act.

8. Section 17(1) of the SARFAESI Act provides that any person aggrieved by any of the measures taken under Section 13(4) may approach the Debts Recovery Tribunal within forty-five days from the date on which such measure has been taken. The provision prescribes a specific period of limitation and does not confer any power upon the Tribunal to condone delay beyond the prescribed period.

9. The relief sought in the present application is to set aside the e-auction sale notice dated 13.10.2023. Admittedly, the auction sale was

conducted on 17.11.2023 and the sale certificate was issued much prior to the presentation of the present Securitisation Application.

10. The principal contention of the applicant is that limitation should commence only from 11.12.2023, being the alleged date of knowledge of the auction sale. This contention cannot be accepted.

11. The records disclose that the borrower is the applicant's own daughter, Mrs. K. Suryakala, Proprietrix of M/s. Sri Suriyakala Exports. It is also not in dispute that the secured asset belonged to Late Mr. A.V.K. Venkatachalam, who had created the mortgage in favour of the respondent bank. The applicant herself admits receipt of the demand notice and possession notice issued under Sections 13(2) and 13(4) of the Act. The respondent has specifically pleaded that the borrower was fully aware of all the SARFAESI proceedings and that the sale notice had also been issued and published in accordance with the Security Interest (Enforcement) Rules, 2002.

12. The plea of absence of knowledge raised by the applicant is therefore a disputed question of fact. More importantly, Section 17 does not provide that limitation would commence from the date of knowledge. The statutory period runs from the date on which the impugned measure is taken. Acceptance of the applicant's contention would amount to rewriting the limitation provision enacted by Parliament.

13. The applicant has attempted to distinguish herself from the borrower and guarantor by contending that she is only a legal heir. However, the materials placed on record disclose that one of the legal heirs, namely the borrower herself, had knowledge of the proceedings. Whether service upon one legal heir is sufficient or whether other legal heirs were required to be individually served are questions touching upon the merits of the challenge. Such questions cannot extend or postpone the statutory period of limitation prescribed under Section 17.

14. The judgments relied upon by the applicant regarding the powers of the Registry do not advance her case. There can be no dispute with the proposition that the issue of limitation is ultimately to be decided by the Tribunal. In the present case, the Registry has rightly placed the matter before the Presiding Officer for orders on maintainability instead of numbering the application. Therefore, no fault can be found with the procedure adopted by the Registry.

15. On the other hand, the respondent has relied upon the decisions of the Hon'ble Supreme Court and various judicial precedents emphasizing that the period of forty-five days prescribed under Section 17 is mandatory and that the Debts Recovery Tribunal has no jurisdiction to entertain an application presented beyond the prescribed period. The object of the SARFAESI Act is expeditious enforcement of security interests, and the limitation provision has consistently been construed strictly.

16. In the present case, the challenge is directed against the auction sale notice dated 13.10.2023 and the sale held on 02.11.2023 culminating in issuance of the sale certificate. The Securitisation Application admittedly came to be presented only on 26.12.2023, much beyond the statutory period of forty-five days. In the absence of any statutory power enabling this Tribunal to condone such delay, the application cannot be entertained.

17. Accordingly, this Tribunal holds that the present Securitisation Application is barred by limitation under Section 17 of the SARFAESI Act and is not maintainable.

18. Consequently, the following:

ORDER

The objection raised by the Registry is **upheld**.

Sd/-
(SHARANG DHAR UPADHYAY)
PRESIDING OFFICER
DRT-II, CHENNAI

(Dictated to PS, who typed in the system directly, corrected, signed and pronounced by me in Open Court, on this 10th day of August, 2026)