IN THE DEBTS RECOVERY TRIBUNAL-2, KERALA
AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated this the 7th day of August, 2026

SECURITIZATION APPLICATION No.63/2025

Between

1. M/s.S.R.Educational and Charitable Trust,
(Reg. No.IV/61/2002),
Represented by its
managing trustee Shaji R.,
TC/2/2700, Divya Prabha,
Marappalam, Pattom P.O.,
Thiruvananthapuram – 695 004.

2. Shaji R.,
S/o.late Raghavan,
TC/2/2700, Divya Prabha,
Marappalam, Pattom P.O.,
Thiruvananthapuram – 695 004.

3. Sreedevi M.G.,
W/o.Shaji R.,
TC/2/2700, Divya Prabha,
Marappalam, Pattom P.O.,
Thiruvananthapuram – 695 004.

4. Shilpa Shaji,
W/o.Alle Shiv Kumar,
TC/2/2700, Divya Prabha,
Marappalam, Pattom P.O.,
Thiruvananthapuram – 695 004. …Applicants

And

Asset Reconstruction Company (India) Ltd.,
Represented by its authorized representative,
The Ruby, 10th Floor, 29, Senapati,
Bapat Marg, Dadar (W), Mumbai – 400 028. …Defendant

This Securitization Application having been heard on 16.07.2026 in the presence of Senior Advocate Sri.George Thomas Mevada for the applicants and Advocate Sri.Sunil Shankar for the defendant and stood over to this day for consideration, the Tribunal delivered the following:

F I N A L O R D E R

Challenging the securitization proceedings initiated by the defendants under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'), the applicants/borrowers have filed this SA under S.17(1) of the SARFAESI Act seeking relief to set aside the notice issued by the Advocate Commissioner appointed in MC No.1039/2024 and to declare the entire proceeding initiated by the defendant under S.14 of the SARFAESI Act as illegal.

Brief facts of the case:

2.1 The 1st applicant is an educational and charitable trust running various educational institutions such as medical college, general hospital, dental college, women's hostel etc. in the District of Thiruvananthapuram, Kerala and other applicants are the managing trustee and trustee of the 1st applicant. The applicants started the general hospital in the year 2002 covering an area of 3,00,000 sq.ft. built up area having more than 250 beds and the medical service is continuing till date. The applicants started dental college and medical college in the year 2010.

2.2 In the year 2012, the applicants availed financial assistance of Rs.50 crores from South Indian Bank Ltd., Thiruvananthapuram by mortgaging nine items of immovable properties over which the medical college, hospital, dental college, hostels for students and staff quarters situate. The applicants were promptly repaying the loans but due to some unforeseen reasons, default occurred in repayments of loans. The bank initiated recovery proceeding by issuing demand notice dated 26.07.2019 calling the applicants to repay the outstanding of Rs.122,45,02,348.64. On receipt of demand notice, the applicants approached South Indian Bank Ltd. for an amicable negotiation to settle the dues but the same did not materialize. The bank has taken steps under S.13(4) of the SARFAESI Act by issuing possession notice dated 22.10.2019 marked Annexure-A12 for taking symbolic possession of the secured assets.

2.3 Previously the applicants filed SA No.342/2019 before this Tribunal challenging possession notice and other measure taken by the defendants. Meanwhile, South Indian Bank Ltd. issued a letter dated 19.07.2021 intimating that the loans granted to the applicants with all securities, rights, title and interest were assigned to Asset Reconstruction Company (India) Ltd. (ARCIL) as per the statutory provision under S.5 of the SARFAESI Act.

2.4 The applicants approached the said ARCIL for one time settlement which was sanctioned by letter dated 13.07.2022 for an amount of Rs.90 crores. On deposit of Rs.6 crores, two items of properties were released to the applicants. Consequently, SA No.342/2019 filed by the applicants challenging the possession notice was dismissed. Since there was delay in repayment as per the terms and conditions of the OTS, the defendant proceeded further by issuing sale notice which was challenged in SA No.603/2024 which was dismissed as infructous.

2.5 Thereafter, the defendant approached the CJM, Thiruvananthapuram bearing MC No.1039/2024 under S.14 of the SARFAESI Act to take physical possession of the secured asset. It is claimed by the applicants that the Authorised Officer has not complied with the mandatory requirements of proviso of S.14 of the SARFAESI Act. The learned CJM passed the order in appointing the Advocate Commissioner in a mechanical manner without ascertaining whether the Authorised Officer has complied with the statutory requirements in filing the declaration. The details of deposit made by the applicants are not stated by the Authorised Officer in the affidavit and the aggregate amount of due as on the date of application is also not stated. In absence of compliance of the statutory requirement, proceeding under S.14 of the SARFAESI Act is illegal and based upon the same, the defendant cannot proceed with the securitization proceeding. Hence the applicants filed this SA praying to declare that the measure under S.14 of the SARFAESI Act as illegal.

3.1 The defendant filed written statement denying the averments and claimed that the 1st applicant has availed credit facilities from South Indian Bank Ltd. as described in paragraph 4 of the written statement by creating equitable mortgage of the properties described in the said paragraph.

3.2 Due to default in repayment, the credit facilities were classified as NPA on 28.02.2019 by the original lender South Indian Bank Ltd. (hereinafter referred to as 'original lender') and issued demand notice on 31.03.2019 calling the applicants to repay the outstanding dues. The demand notice was challenged by the applicants before the Hon'ble High Court of Kerala in W.P.(C)

No.16877/2019 which was disposed by judgment dated 25.06.2019 directing the 1st applicant to make payment of Rs.50 lakhs on or before 29.06.2019 and another sum of Rs.1.25 crores on or before 10.07.2019 but the 1st applicant failed to comply the direction of the Hon'ble High Court.

3.3 Subsequently, some clerical mistake was noticed in the demand notice dated 31.03.2019, which was withdrawn and the bank issued fresh demand notice on 26.07.2019 which was received by the applicants. No objection or representation was submitted to such demand notice. Hence the original lender proceeded to take measure under S.13(4) of the SARFAESI Act by issuing possession notice, described in details in paragraph 8 of the written statement, after compliance of the statutory requirements. The applicants challenged the possession notice in SA No.342/2019 impleading the original lender. Subsequently original lender entered into an assignment agreement with the defendant on 16.07.2021 wherein the bank has unconditionally and irrevocably assigned, transferred and released all the financial assistance granted to the 1st applicant including the guarantees executed by other applicants together with underlying securities and right, title and interest to the defendant as per the provision of the SARFAESI Act.

3.4 The applicants approached the present defendant to settle the liability under OTS which was granted on 13.07.2022 and agreed to settle the entire liability for Rs.90 crores. Accordingly, the securitization applications bearing SA No.342/2019 and SA No.66/2020 were closed on 03.08.2022 based on terms and conditions of the OTS which was recorded in the proceeding by this Tribunal. The applicants did not comply with the terms and conditions of OTS. Consequently, the same was cancelled.

3.5 The applicants challenged the sale notice dated 26.09.2023 issued by the defendant in SA No.603/2023 but the sale did not materialize, and the SA was dismissed by final order dated 14.03.2025 which was not challenged by the applicants and the said order has attained finality.

3.6 The defendant, being unable to take physical possession of the secured asset, approached the CJM Court, Thiruvananthapuram under S.14 of the SARFAESI Act and an Advocate Commissioner was appointed by the learned CJM vide order dated 15.11.2024 which was challenged by the applicants before the Hon'ble High Court of Kerala but they did not get any relief. Consequently, physical possession of part of the secured assets was taken in compliance of the order of the Hon'ble High

Court. The applicants have also approached the Commercial Court, Thiruvananthapuram seeking prohibitory injunction against the defendant but no relief was granted and the said civil suit was withdrawn. There is no illegality in the proceeding under S.14 of the SARFAESI Act. All the statutory measures are duly compiled. OTS, having not complied by the applicants, they have no right to file the SA in challenging the measure taken under S.14 of the SARFAESI Act. In absence of any illegality, the SA may be dismissed.

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

(i) Whether the securitization proceedings initiated by the defendant suffer from any illegality to intervene with the same?

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

FINDINGS:

Point Nos.(i) & (ii):

5. There is no dispute about availing of loan of Rs.160.81 lakhs by the 1st applicant trust described in detail in the written statement of the defendant by creating equitable mortgage in respect of the properties described in paragraphs 4(i) to (x) of the written statement. Due to default in repayment, all the credit facilities turned to NPA on 28.02.2019 followed by issuance of demand notice by the original lender on 31.03.2019. Due to some clerical mistake, demand notice dated 31.03.2019 was withdrawn and fresh demand notice was issued on 26.07.2019 and receipt of the same is not disputed by the applicants. Due to non-repayment of the claim amount, step was taken under S.13(4) of the SARFAESI Act for taking symbolic possession of the secured assets except item No.4 and item no.4 on 22.10.2019 and 16.01.2020 respectively after complying the statutory requirements.

6. Subsequently, the loans were assigned to the present defendant by the original lender by assignment agreement dated 16.07.2021 giving authority to this defendant to enforce the securities as per the provision of the SARFAESI Act and to recover all financial assistance granted to the 1st applicant including the guarantors in respect of the mortgaged properties. After assignment of the loans to the present defendant, the applicants

approached the defendant for OTS which was sanctioned on 13.07.2022 for an amount of Rs.90 crores in terms and conditions of the settlement but the applicants did not comply the same.

7. The defendant approached the CJM Court, Thiruvananthapuram under S.14 of the SARFAESI Act seeking assistance in taking physical possession of the secured asset of an extent of 9.88 Acres along with buildings therein as described in the application filed under S.14 of the SARFAESI Act, in which an Advocate Commissioner was appointed to take possession of the secured asset which is under challenge in this SA.

8. During hearing, learned Senior Counsel Shri. George Thomas Mevada appearing for the applicants raised very limited points in support of the claim of the applicants as follows:

(i) The Authorised Officer of the defendant has no legal authority to file application under S.14 of the SARFAESI Act on behalf of the secured creditor. Application under S.14 of the SARFAESI Act is required to be filed by the secured creditor which having not done in the present case, the entire proceeding of the learned CJM is vitiated and the defendant cannot take possession of the subject matter property.

(ii) The affidavit filed by the so-called Authorised Officer before the CJM is not in compliance of the first proviso to S.14 of the SARFAESI Act. The present outstanding liability as on 09.10.2024 is stated as Rs.22,80,47,183/- in paragraph 12 of the affidavit but in this case the defendant claims that the outstanding is above Rs.209 crores, which cannot be accepted as valid. Hence the securitization proceeding is totally vitiated and the order passed by the learned CJM, being passed without application of mind, is not legally sustainable.

9. The learned counsel for the defendant would contend that as per the statute, the Authorised Officer has legal authority to act on behalf of the secured creditor. Here in this case, the person concerned was authorized to file application under S.14 of the SARFAESI Act which cannot be said illegal keeping in view of S.13(12) of the SARFAESI Act r/w R.2(a) of the Security Interest (Enforcement) Rules.

10. It is submitted that all the statutory measures are duly complied in filing the application under section 14 of the SARFAESI Act. Based upon the order of the learned CJM, possession of part of the secured asset was taken which is not challenged by the applicants. Now raising the contrary claim by the applicants against

the enforcement of the order of the learned Chief Judicial Magistrate in respect of the remaining property is not legally sustainable.

11. In the affidavit filed before the CJM by the Authorised Officer, details of the loans availed, amount recovered and the outstanding dues as on 09.10.2024 is stated. Due to some typographical errors, total outstanding liability is erroneously stated as Rs.22,80,47,183/-. Subsequently, the defendant filed Crl.MP No.3246/2024 for rectifying the typographical error which was allowed by the CJM on 07.12.2024 stating the total dues as on 09.10.2024 as Rs.193,10,10,256/- based on the materials on record. At the time of issuance of the demand notice, total outstanding in the loan account was Rs.122,45,02,348.64 which is not disputed by the applicants and the total remittance as per the OTS is only Rs.23 crores. After adjusting the said amount, total outstanding as on 09.10.2024 is Rs.193,10,10,256/- based upon the agreed interest rate. Due to mere typographical error, which was subsequently corrected, the applicants cannot claim that the total outstanding is only Rs.22 crores in place of Rs.200 crores. All the statutory provisions contained under S.14 of the SARFAESI Act

are duly complied and hence the SA is not maintainable both in law and on facts.

12. Previously the applicants filed series of SAs before this Tribunal and writ applications before the Hon'ble High Court of Kerala. The conclusion arrived by this Tribunal in the earlier SA has attained finality. Now raising the similar contentions is barred by the principle of *res judicata.* Further, the applicants submitted OTS which was accepted but the applicants having not complied the terms and conditions of OTS, now they cannot raise any illegality or irregularity in the securitization proceeding. In the above premises, the SA may be dismissed.

13. There is no dispute that an extent of 9.88 Acres along with medical college building, dental hospital building, principal quarters, men’s hostel etc. standing over the said property was mortgaged to secure the loans. Due to default, the loans were classified as NPA on 28.02.2019, followed by issuance of demand notice. As the claim amount was not repaid, measure under S.13(4) of the SARFAESI Act was taken by issuing possession notice. The Authorised Officer took physical possession of item Nos.1A, 1B, 3 and 5 to 9 of the demand notice without any resistance. In respect of another item of property i.e., item No.4, possession notice was

issued on 16.01.2020 after compliance of the statutory requirements.

14. During securitization proceeding, the original lender assigned, transferred and released the secured assets in favour of the defendant including the financial assistance granted to the 1st applicant and the guarantees as per the provision of the SARFAESI Act. Thereafter the applicants approached the present defendant to settle the liability for an amount of Rs.90 crores which was accepted but the applicants did not comply with the terms and conditions of settlement and accordingly, the OTS was cancelled. Other securitization measure in putting the property for sale was taken but the sale did not fructify.

15. The defendant filed application under S.14 of the SARFAESI Act before the CJM, Thiruvananthapuram bearing MC No.1039/2024 to take physical possession of the secured asset which was allowed by the CJM vide order dated 15.11.2024 appointing an Advocate Commissioner to take possession of the secured asset described in details in the schedule therein. After passing of the order by the CJM, the Advocate Commissioner has taken physical possession of the buildings in existence over the secured asset described in item No.2 of the demand notice.

16. As stated earlier, the main contention raised by the learned senior counsel for the applicants is that application under S.14 of the SARFAESI Act is not filed by the secured creditor and the Authorised Officer of the defendant has no right to file such application. In absence of the same, the order passed by the CJM is vitiated. During continuance of the securitization proceeding by the original lender, the loans were assigned to the present asset reconstruction company by virtue of assignment agreement dated 16.07.2021. Consequently, on acquisition of the financial asset under sub-section (1) of Section 5 of the SARFAESI Act, the right was acquired by the asset reconstruction company to continue, prosecute and enforce the security in the same capacity of the original lender as contained under S.5(4) of the SARFAESI Act.

17. S.13(12) of the SARFAESI Act reads as follows:

> *(12) The rights of a secured creditor under this Act may be exercised by one or more of his officers authorised in this behalf in such manner as may be prescribed.*

R.2(a) of the Security Interest (Enforcement) Rules, 2002 reads as follows:

> *(a) "authorized officer" means an officer not less than a chief manager of a public sector bank or equivalent, as specified by the Board of Directors or Board of Trustees of the secured creditor or any other person or authority exercising powers of superintendence, direction and control of the business or*

> *affairs of the secured creditor, as the case may be, to exercise the rights of a secured creditor under the Act;*

In view of this statutory rule, authorised officer means an officer not less than a chief manager of the public sector bank or equivalent or any other person or authority exercising powers of superintendence, direction and control of the business or affairs of the secured creditor, as the case may be, to exercise the rights of a secured creditor under the Act.

18. Here in this case, application under S.14 of the SARFAESI Act is filed by the Authorised Officer and Chief Manager Mr.Judis Gladson. He has also produced authorization letter before the CJM which is apparent from the list of documents mentioned in the said application marked Annexure-A3 in this case. The Authorised Officer has also filed an affidavit marked Annexure-B7 in compliance of the proviso to S.14(1) of the SARFAESI Act. The learned CJM, Thiruvananthapuram passed the order on 15.11.2024 marked Annexure-A1 in appointing an Advocate Commissioner to take possession of the secured asset described in the application after carefully considering the affidavit and the documents produced by the defendant. Since the said Authorised Officer was authorized by the secured creditor/asset reconstruction company to act on behalf of the secured creditor, no illegality was committed by

the Authorised Officer in filing the application as representative of the secured creditor. The secured creditor can act through its employee or any other person being authorized keeping in view of the provision contained under S.13(12) of the SARFAESI Act r/w R.2(a) of the Security Interest (Enforcement) Rules, 2002.

19. In a judgment of the Hon'ble Apex Court reported in *(2023) 1 SCC 675* in the case of ***M/s.R.D.Jain and Co. vs. Capital First Ltd. & others*** at paragraph 7 it is held as follows:

> *"7............ Section 13 deals with enforcement of security interest. Sub-Section (4) thereof envisages that in the event a default is committed by the borrower in discharging his liability in full within the period specified in sub-section (2), the secured creditor may take recourse to one or more of the measures provided in sub-section (4). One of the measures is to take possession of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset. That, they could do through their "authorised officer" as defined in Rule 2(a) of the Security Interest (Enforcement) Rules, 2002."*

In that judgment in paragraph 8 it is held as follows:

> *"8. .... For taking possession of the secured assets, it could be done by the "authorised officer" of the Bank as noted in Rule 8 of the Security Interest (Enforcement) Rules, 2002."*

In view of this judgment, the secured creditor can take possession of the secured asset only through the Authorised Officer. The contention on this aspect raised by the learned senior counsel has no legal value to accept the same. No illegality was committed by the defendant in filing S.14 application by the Authorised Officer as representative of the secured creditor/asset reconstruction company.

20. The learned senior counsel for the applicants has raised another point stating that in the affidavit marked Annexure-A22 in paragraph 13, the Authorised Officer has stated that the present outstanding liability (total due summary) as on 09.10.2024 is Rs.22,80,47,183/- and based upon the same, the learned CJM passed the order on 15.11.2024 appointing the Advocate Commissioner to take possession of the subject matter property. Now the claim of the defendant of an amount of Rs.193,10,10,266/- is not sustainable.

21. On the other hand, learned counsel for the defendant based on the materials on record stated that the amount stated in paragraph 13 of the affidavit is a typographical error and the total recovery of Rs.22,80,47,183/- is mentioned in place of the total outstanding. But along with the application, total dues summary as on 09.10.2024 marked Annexure-B9 was produced which indicates that the recovered amount is Rs.22,80,47,183/- and the total outstanding dues is Rs.193,10,10,266/-. Hence the contention on this aspect by the learned counsel for the applicants cannot be accepted.

22. On perusal of the materials on record, it appears that at the time of filing this SA, the applicants did not dispute the claim amount as mentioned in the sale notice nor they have stated in their pleading that out of Rs.122,45,02,348.64 stated in the demand notice, they have repaid the amount and the outstanding is only Rs.22.80 crores. After filing this SA, the applicants filed IA No.373/2025 praying to stay Annexure-A1 order passed in MC No.1039/2024 by the CJM, Thiruvananthapuram and Annexure-A2 notice of the Advocate Commissioner. After hearing, the IA was dismissed by order dated 05.05.2025. The applicants filed appeal before the Hon'ble DRAT in MA (SA) No.2/2026. While preferring the appeal, the applicants sought waiver of pre-deposit but the Hon'ble DRAT directed the applicants to remit 40% of Rs.22.80 crores. The defendant filed review application before the DRAT claiming that the total dues is Rs.193.10 crores and accordingly, the DRAT reviewed the order and directed the applicants to deposit 30% of Rs.193.10 crores.

23. The applicants assailed the same before the Hon'ble High Court and also before the Hon’ble Apex Court in SLP No.32684/2025 which was disposed by judgment dated 21.11.2025 in setting aside the order of review of the DRAT and held that "*In*

the event the applicants have deposited the amount on account of 'pre-deposit' in terms of the parent order dated 11th July, 2025, the appeal may be considered by the DRAT in accordance with law". In the said judgment in paragraph 14, the Hon'ble Apex Court observed as follows:

> *"14. It is made clear that this order is passed without prejudice to the rights and contentions of ARCIL to claim in future proceedings that the amount due from the appellants, as stated initially in the application under Section 14 of the SARFAESI Act being erroneous was sought to be rectified, and that Rs.193.10 crore is the amount of debt due from the appellants."*

In view of this judgment, there is no bar on the part of the defendant to claim in this SA that total debt due is Rs.193.10 crores at the time of filing the application under S.14 of the SARFAESI Act.

24. It is also seen from the materials that after passing the order, the defendant filed a corrected affidavit along with an application bearing Crl.MP No.3246/2024 to correct the typographical error in the affidavit which was allowed by the CJM as per order dated 07.12.2024 marked Annexure-A22.

25. Due to erroneous statement about the amount due in the affidavit by the Authorised Officer, it does not prevent the lender to show the actual outstanding debt based upon the available materials. The total dues summary as on 09.10.2024

marked Annexure-B9 was produced along with the application filed under S.14 of the SARFAESI Act which shows that the total dues is Rs.193,10,10,256/- and recovery amount is only Rs.22,80,47,183/- Keeping in view of the judgment of the Hon'ble Apex Court, the defendant is legally entitled to claim total outstanding due of Rs.193,10,10,256/- as on 09.10.2024. At the time of passing of the order, the learned CJM has referred the affidavit filed by the Authorised Officer and passed the impugned order in MC No.1039/2024 on 15.11.2024. Mere erroneous statement of the outstanding amount in the affidavit by the Authorised Officer, the order passed by the Chief Judicial Magistrate under section14 of the SARFAESI Act cannot be said illegal. The CJM, while invoking its power in the proceeding under section 14 of the SARFAESI Act on Administrative side, has no authority to decide the correctness of the quantum of outstanding. In such premises, it is not required to interfere with the order of the learned Chief Judicial Magistrate.

26. Besides the same, based upon the order passed by the CJM, Advocate Commissioner visited the spot and took possession of the vacant areas and two blocks which were in operational as per the report dated 16.12.2024 marked Annexure-B11. Taking of possession of the said land by the Advocate commissioner based

upon the order of the learned Chief Judicial Magistrate is not challenged by the applicants in this proceeding. Only when step was taken by the Advocate Commissioner to take possession of the building where dental college is functioning, the SA is filed in challenging the order and the authority of the Authorized officer in filing the application which is not permissible. Hence the contention on this aspect by the learned counsel for the applicants has no leg to stand and not accepted.

27. Before parting with the case, it is necessary to place the sequence of cases filed by the applicants from time to time from the year 2019 after classification of the loans as NPA as follows:

28.02.2019	Due to default in repayment, accounts were classified as NPA by the original lender.
26.07.2019	Fresh demand notice was issued which was received by the applicants but no objection/representation was submitted.
W.P.(C) No.28193/2019	Applicants filed W.P.(C) No.28193/2019 before the Hon'ble High Court of Kerala which was dismissed with liberty to approach the original lender.
SA 342/2019	Possession notice was challenged by the applicants by filing the SA.
SA 66/2020	Applicants filed the SA challenging the sale notice (sale did not materialize for want of bidders).
13.07.2022	Applicants approached the defendant for OTS and the parties agreed to settle the liability for Rs.90 crores but they did not comply with the terms and conditions and the OTS got cancelled.
03.08.2022	SA No.342/2019 and SA No.66/2020 were closed.
SA 603/2023	Challenging the sale notice dated 26.09.2023, the

	applicants filed this SA and IA No.3504/2023 filed for stay was disposed as infructuous as the sale did not fructify.
O.P.(DRT) No.510/2023	1st applicant filed the O.P.(DRT) challenging dismissal of IA No.3504/2023 and the O.P.(DRT) No.510/2023 was dismissed on 31.07.2024.
SLP(C) No.20140/2024	1st applicant challenged the dismissal of O.P.(DRT) No.510/2023 before the Hon'ble Apex Court and the SLP was dismissed by order dated 03.09.2024.
14.03.2025	SA No.603/2023 filed by the applicants was dismissed by the Tribunal.
W.P.(C) No.43827/2024	Applicants filed the writ petition before the Hon'ble High Court of Kerala challenging the notice issued by the Advocate Commissioner which was disposed.
O.P.(DRT) No.20/2025	Applicants filed the O.P.(DRT) before the Hon'ble High Court and the Hon'ble Court recorded the submission of the defendant that the conduct of the examinations till 01.02.2025 will not be interfered with, though possession of various buildings have been taken up.
W.P.(C) No.21871/2025	Applicants filed the writ petition before the Hon'ble High Court seeking direction to the State of Kerala to transfer compensation amount allegedly due to the 1st applicant to the defendant and the said writ petition was dismissed as withdrawn on 04.08.2025.
AIR No.1241/2025	Applicants filed AIR before the Hon'ble DRAT against the dismissal of stay petition bearing IA No.373/2025 by the Tribunal.
O.P.(DRT) No.246/2025	Applicants filed the O.P.(DRT) before the Hon'ble High Court of Kerala against the order of the Hon'ble DRAT directing deposit of amount which was dismissed by the Hon'ble High Court on 24.10.2025.
SLP(C) No.32684/2025	Filed by the applicants challenging the dismissal of O.P.(DRT) No.246/2025. Hon'ble Apex Court directed to make pre-deposit as per the original order dated 11.07.2025 of DRAT.

28. It is seen from the materials that after availing the loans and classification of the same as NPA in the year 2019,

demand notice was issued calling the applicants to pay an amount of Rs.122 crores but no objection/representation was submitted. OTS proposal was accepted for Rs.90 crores but the applicants did not comply the terms of settlement, instead they continued to file cases one after another which demonstrate that the applicants have no intention to repay the loan but to drag the securitization proceeding by filing vexatious cases from time to time. Further, once OTS was accepted for Rs.90 crores on the proposal of the applicants which was not remitted, it can be construed that the applicants have no claim against the demanded amount. Subsequently they cannot turn back in challenging the quantum of outstanding and also they are debarred to raise any illegality or irregularity in the securitization proceeding in view of the ratio decided by the Hon'ble Apex Court in the case of ***Arce Polymers Private Limited v. Alphine Pharmaceuticals Private Limited and others,*** reported in *(2022) 2 SCC 221*. The applicants have no bonafide in prosecuting the case and also no basis to challenge the order of the CJM which is purely administrative in nature to assist the secured creditor to take possession of the secured asset. In view of the foregoing reasons, the applicants are not entitled to get any relief and both the points are answered against them.

29. Before parting with the case, it is required to mention that one dental college is functioning in the 3rd block over part of the secured asset. It is the responsibility and duty of the applicants to make necessary arrangements for running the college at alternative place for education and benefit of the students continuing their study. In such premises, the defendant shall allow the applicants to make alternative arrangement for functioning of the dental college within three months from the date of passing of this judgment.

Hence it is ordered:-

ORDER

30. In view of the foregoing reasons and with the above observation, the SA is dismissed with cost of Rs.50,000/- (Rupees fifty thousand only) for causing unnecessary delay in recovery of the amount by the applicants by filing vexatious applications one after another.

(Dictated to my PA, corrected and pronounced by me in the open Tribunal on this the 7th day of August, 2026)

[SOVAN KUMAR DASH]
PRESIDING OFFICER

Documents on the part of the applicants

Annexures	Date	Particulars of documents
Annexure-A1	15.11.2024	Copy of order passed by the CJM, Thiruvananthapuram in MC No.1039/2024.
Annexure-A2	29.11.2024	Copy of notice issued by the Advocate Commissioner in MC No.1039/2024.
Annexure-A3	18.10.2024	Copy of MC No.1039/2024 filed before the CJM, Thiruvananthapuram.
Annexure-A4	13.07.2022	Copy of sanction letter along with terms and conditions for settlement.
Annexure-A5	27.02.2023	Copy of letter issued by South Indian Bank Ltd.
Annexure-A6	07.12.2024	Copy of W.P.(C) No.43827/2024 filed before the Hon'ble High Court of Kerala.
Annexure-A7	13.12.2024	Copy of order passed by the Hon'ble High Court in W.P.(C) No.43827/2024.
Annexure-A8	17.12.2024	Copy of IA Nos.3 and 4 filed in W.P.(C) No.43827/2024.
Annexure-A9	24.12.2024	Copy of time table laid down by the Kerala University of Health Sciences.
Annexure-A10	19.12.2024	Copy of order passed by the Hon'ble High Court of Kerala.
Annexure-A11	26.07.2019	Copy of demand notice issued by South Indian Bank Ltd.
Annexure-A12	22.10.2019	Copy of possession notice published in Indian Express daily.
Annexure-A13	19.07.2021	Copy of letter issued by South Indian Bank Ltd.
Annexure-A14	16.03.2020	Copy of proceeding/order of the Chief Executive Officer, District Disaster Management Authority, Thiruvananthapuram.

Annexure-A15	14.02.2022	Copy of judgment in W.P.(C) No.27889/2021 of the Hon'ble High Court of Kerala.
Annexure-A16	26.07.2022	Copy of receipt showing deposit of Rs.34.50 lakhs to the defendant.
Annexure-A17	27.07.2022	Copy of receipt showing deposit of Rs.22.90 lakhs to the defendant.
Annexure-A18	14.02.2023	Copy of declaration of the 1st applicant showing deposit of Rs.1 crore.
Annexure-A19	26.04.2023	Copy of receipt showing deposit of Rs.1 crore.
Annexure-A20	19.02.2021	Copy of statement of account issued by South Indian Bank Ltd.
Annexure-A21	11.07.2025	Copy of order in IA No.825/2025 in AIR No.1241/2025 of DRAT, Chennai.
Annexure-A22	07.12.2024 & 19.10.2024	Copy of order in CMP No.3246/2024 and copy of corrected affidavit in MC No.1039/2024 on the file of CJM Court, Thiruvananthapuram.
Annexure-A23	01.08.2025	Copy of the proceeding/order in RP No.1/2025 in IA No.825/2025 on the file of DRAT, Chennai.
Annexure-A24	...	Copies of letters produced by the defendant before the CJM, Thiruvananthapuram.
Annexure-A25	21.11.2025	Copy of order in SLP No.32684/2025 of the Hon'ble Apex Court.

Documents on the part of the defendant

Annexure-B1	25.06.2019	Copy of judgment in W.P.(C) No.16877/2019 of the Hon'ble High Court of Kerala.
Annexure-B2	26.07.2019	Copy of notice under S.13(2) of the SARFAESI Act issued to the applicants.

Annexure-B3	28.10.2019	Copy of judgment in W.P.(C) No.28193/2019 of the Hon'ble High Court of Kerala.
Annexure-B4	13.07.2022	Copy of OTS granted by the defendant.
Annexure-B5	03.08.2022	Copy of proceedings in SA Nos.342/2019 and 66/2020.
Annexure-B6	14.03.2025	Copy of final order in SA No.603/2023 of this Tribunal.
Annexure-B7	...	Copy of application under S.14 of the SARFAESI Act filed by the defendant before the CJM, Thiruvananthapuram.
Annexure-B8	13.12.2024	Copy of judgment in W.P.(C) No.43827/2024 of the Hon'ble High Court of Kerala.
Annexure-B9	11.10.2024	Copy of total dues summary prepared by the defendant.
Annexure-B10	04.08.2025	Copy of judgment in W.P.(C) No.21871/2025 of the Hon'ble High Court of Kerala.
Annexure-B11	16.12.2024	Copy of interim report filed by the Advocate Commissioner in MC No.1039/2024 along with mahazar.
Annexure-B12	12.11.2018	Copy of letter issued by South Indian Bank Ltd. regarding renewal of credit facilities.
Annexure-B13	21.06.2012	Copy of search report showing registration of security interest in CERSAI portal.

PRESIDING OFFICER

IN THE DEBTS RECOVERY TRIBUNAL-2,
KERALA AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated the 7th August, 2026

SA No.63/2025

Between

M/s.S.R.Educational and Charitable Trust, (Reg. No.IV/61/2002),
Represented by its
managing trustee Shaji R.,
TC/2/2700, Divya Prabha,
Marappalam, Pattom P.O.,
Thiruvananthapuram
& 3 others. …Applicants

And

Asset Reconstruction Company (India) Ltd.,
Represented by its authorized representative,
The Ruby, 10th Floor, 29, Senapati,
Bapat Marg, Dadar (W),
Mumbai – 400 028. …Defendant

F I N A L O R D E R