IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 19th day of August, 2026

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

SA No.642 of 2022

H. Rajini Kanthan
Son of J. Harikrishnan
No.18 and 19, House No. G2
Ground Floor, SBA Archit Apartments
Venkatesa Nagar Extension
1st Street, Saligramam
Chennai – 600 092 …**Applicant**

Versus

The Authorized Officer
PNB Housing Finance Ltd.,
OMR (C45 1st Floor)
TVK Industrial Estate
Guindy, Chennai – 600 032 **…Respondent**

Counsel on Record / Appeared

Applicants by	:	Shri G. Sanjeevi
Respondent by	:	M/s T. Sai Krishnan

O R D E R

1. This petition is filed under Section 17(1) of the SARFAESI Act challenging the Possession Notice dated 15.11.2022 issued by the Respondent Bank under Section 13(4) of the SARFAESI Act.

Facts of the case as averred in the SA

2. The applicant approached the respondent for grant of credit facility to the tune of Rs.34,62,000/- in the year 2018 and the same was sanctioned by the respondent bank. The applicant created equitable mortgage over the

schedule mentioned property in favour of the respondent bank and also executed necessary loan and security documents.

3. Suddenly, the respondent bank classified the loan account as NPA contrary to the guidelines of RBI. The respondent bank hurriedly issued the possession notice dated 15.11.2022 to the applicant calling upon the borrower and applicant to pay a sum of Rs.41,18,283.84p

4. The respondent bank failed to give credit to various remittances made by the applicant. The secured asset is the only property available to the applicant and if it is allowed to proceed further the applicant will be put to serious and irreparable loss.

5. The applicant along with the SA had filed impugned possession notice dated 15.11.2022.

Counter of Respondent

6. Upon notice the respondent filed counter affidavit stating therein that the SA is absolutely vague, unsustainable and based on false statements and such liable to be rejected in limini. The respondent has scrupulously complied with the provisions of the SARFAESI Act and the Rules made thereunder.

7. The applicant approached the respondent for grant of housing loan in the year 2017 and the respondent sanctioned a sum of Rs.34,62,000/- repayable in 180 equated monthly installments of Rs.38,377/-. The applicant deposited the original title deeds with an intention to create equitable mortgage over the same to secure the loan amount borrowed.

8. The applicant defaulted in repayment of monthly installments and hence the account was classified as NPA on 31.03.2021 as per the guidelines of RBI and caused demand notice under Section 13(2) of the SARFAESI Act on 08.04.2021 demanding a sum of Rs.37,55,232.59p. The demand notice was duly served on the applicant, published in newspapers viz., “Dinakaran” Tamil daily and “Indian Express” English daily both on 24.10.2021. The applicant regularized the account and then again defaulted in repayment and hence a fresh demand notice was issued on 09.05.2022 calling upon the applicant to pay a sum of Rs.41,18,283.84p. The demand notice was served on the applicant, published in newspapers on 02.07.2022. Despite the applicant did not come forward to clear the dues. Hence the respondent bank issued the impugned possession notice on 15.11.2022. The said notice is served on the applicant as well as co-borrowers through RPAD, affixed on the secured asset on 15.11.2022 and published in two leading newspapers, one in vernacular language i.e., Dinakaran, Chennai Edition dated 20.11.2022 and Indian Express dated 20l11l2022. The respondent has thus complied with the provisions of the SARFAESI Act and Rules made thereunder while issuing the impugned possession notice.

9. Alongwith the counter the respondent filed typed set viz., Memorandum of deposit of title deeds dated 11.12.2017, Demand Notice dated 08.04.2021 with postal receipts, Paper publication of demand notice in English and Tamil daily both dated 24.10.2021, Demand notice dated 09.05.2022, paper publication of demand notice in English and Tamil daily both dated 2.7.2022, Possession Notice dated 15.11.2022 with postal receipts, Proof of affixture of possession notice, Publication of Possession notice in English daily “Indian

Express" and Tamil daily "Dinakaran" both dated 20.11.2022 and Statement of Accounts.

Points for consideration

10. Having heard at length the arguments of the Ld. Counsels appearing on behalf of the parties and after going through the documents available on record, the following point arises for determination in these proceedings:-

Whether the impugned possession notice is in accordance with the Act and the Rules framed thereunder?

Answers to the point for consideration

11. At the outset, it is to be stated that while the secured creditor has been given the right to enforce the security interest without the intervention of the Court or Tribunal, the secured creditor while enforcing the same shall invariably comply the provisions of the SARFAESI Act and the Rules made thereunder, lest, the Tribunal can set aside the same if questioned.

12. Hon'ble Supreme Court of India, in re Mathew Vargheese Vs. M. Amirtha Kumar and others 2014 (5) SCC P-610(paragraph 24) held :

> *"that a free hand is given to the SECURED CREDITOR for the purpose of enforcing any security interest created in favour of SECURED CREDITOR, without the intervention of the Court or Tribunal. The only other relevant aspect contained in the said sub- section is that* ***such enforcement should be in accordance with the provisions of this Act****. A reading of Section 13(1), therefore, is clear to the effect that while on the one hand any SECURED CREDITOR may be entitled to enforce the SECURED ASSET created in its favour on its own without resorting to any court proceedings or approaching the Tribunal,* ***such enforcement should be in conformity with the other provisions of the SARFAESI Act****"*

13. In so far as the case on hand is concerned, since the subject matter of challenge is Possession Notice issued in terms of Section 13(4) of the

SARFAESI Act, the same shall be in conformity with Rule 8(1) and 8(2) of the Security Interest (Enforcement) Rules, 2002, which are as follows:

"*8. Sale of immovable secured assets.—*

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

(2) The possession notice as referred to in sub-rule (1) shall also be published in two leading newspapers, one in vernacular language having sufficient circulation in that locality, by the authorised officer."

14. The respondent bank, in its counter affidavit, have firmly asserted that they had complied with the required mandatory procedure and also filed documents in support of the said contention.

15. The respondent had filed the demand notice issued under Section 13(2) dated 09.05.2022 along with postal receipts (at Page No.78 to 82) and paper publication of the said demand notice in vernacular daily "Dinakaran" and English daily "Business Standard" both dated 02.07.2022 (Page No.83 & 84), the Possession Notice dated 15.11.2022 along with postal receipts (Page No.85 & 86), photograph evidencing affixture of possession notice on the secured asset (Page No.89 to 91), the publication of the possession notice in "Indian Express" and "Dinakaran" both dated 20.11.2022 (at Page Nos. 88 & 89). Thus, there is compliance of mandatory provisions of the SARFAESI Act and the Rules made thereunder by the Authorised Officer while issuing the possession notice impugned in this application, hence, the same does not call for any interference by this Tribunal. Point is answered accordingly.

16. Therefore, for the aforesaid reasons, the Tribunal finds no merit or substance in the application and the measures as initiated by the respondent bank are in conformity with the provisions of the SARFAESI Act and the Rules made thereunder, as such, the same does not warrant any interference from the this Tribunal.

17. Hence the following:

ORDER

(a) SA No.642 of 2022 stands dismissed. All other pending IAs, if any, stands closed.

(b) Parties to bear their own costs.

18. A copy of this order be communicated to the parties concerned as per the rules.

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 19th day of August, 2026)