IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this the 14th day of August, 2026

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

IA No.928 of 2026 in SA No.412 of 2024

1. Mr. SAdasivam Chinnathambi
S/o Chinnathambi
Proprietor of M/s Kanishka Chudidar Showroom
231/14, Sacred Hear College Commercial Complex
Vaniyambadi Road, Tirupathur – 635 601

And also at
No.16, Anumantha Ubaskar Pettai
Tirupathur – 635601

2. Mrs. Anu Sadasivam
W/o Mr. Sadasivam
Proprietor of M/s Kaniskha Fashion
No.44/2, 1st Floor, RCS Main Road
Natrrampalli, Tirupathur – 635 601

And also at
231/14, Sacred Heart College Commercial Complex
Vaniyambadi Road, Tirupathur – 635 601

And also at
No.16, Anumantha Ubaskar Pettai
Tirupathur – 635 601

3. Mr. C. Mahendran
S/o Chinnathambi
3/273, K.P. Vattam, Damalerimuthur
Tirupathur – 635853

4. Mr. C. Mahakrishnan
S/o Chinnathambi
3/273, K.P. Vattam, Damalerimuthur
Tirupathur – 635 853 **…Petitioners / Applicants**

Versus

1. The Authorised Officer
Tamilnad Mercantile Bank Ltd.,
Tirupathur Branch
D. No.4-A, Sivanaar Street
Tirupathur – 635 601

2. Mr. Stalin
S/o Mr. Jothiraman
No.1/471/2, Thendral Nagar
Bypass Road, Vaniyambadi – 635 752 **…Respondents / Respondents**

ORDER

1. This Interlocutory Application is filed by the applicant praying to permit the applicant to raise additional grounds.

Facts as averred in the application

2. The Petitioners have filed the above SA challenging the measures taken by the Respondent Bank under the provisions of SARFAESI Act, including the auction sale conducted in respect of the secured asset.

3. During the pendency of the above SA, the petitioners came to know that the auction purchaser i.e., the 2nd respondent herein has failed to comply the mandatory requirements prescribed under Rule 9 of the Security Interest (Enforcement) Rules, 2002.

4. At the time of filing SA, the applicants had specifically reserved their right to raise additional grounds, if necessary, upon discovery of further facts and development. The present ground relating to the failure of the auction purchaser to pay the balance 75% of the sale consideration within the prescribed under Rule 9(4) of the Security Interest

(Enforcement) Rules, 2002 arose only subsequent to the filing of the SA. Therefore, the applicants were not in a position to raise the said ground at the time of filing the SA.

5. As per Rule 9(3) of the Security Interest (Enforcement) Rules, 2002, the successful bidder is required to deposit 25% of the bid amount immediately upon being declared as the successful purchaser. Under Rule 9(4) of the said Rules, the balance 75% of the sale consideration is required to be paid within 15 days of confirmation of sale or within such extended period of 90 days and such extension cannot exceed 90 days from the date of confirmation of sale. Therefore the statutory scheme of SARFAESI Act does not permit payment of the balance sale consideration beyond a maximum period of 90 days from the date of confirmation of sale. In the present case, there was no order of stay granted by this Tribunal restraining the auction sale or prohibiting the auction purchaser from remitting the balance sale consideration. The Tribunal by order dated 30.9.2024 merely directed that the sale transaction shall be subject to the result of the SA. The said order did not prevent or prohibit the auction purchaser from complying with the mandatory requirement of Rule 9(4). Therefore there existed no legal impediment whatsoever for the auction purchaser to pay the balance 75% of the sale consideration within the statutory period. The failure to do so constitutes a clear violation of Rule 9(4) of the Rules and renders the auction sale liable to be declared invalid.

6. Rule 9(5) of the Rules, specifically provides that in the event of default in payment of the balance amount within the stipulated period, the amount already deposited shall be forefeited and the property shall be resold. The said provision is mandatory in nature and leaves no discretion to validate a swale which has not been completed in accordance with law.

7. The failure of the auction purchaser to pay the balance sale consideration within the time prescribed under the Rules renders the auction sale illegal, unenforceable and liable to be set aside. The sale does not attain finality when the mandatory conditions governing the sale have not been fulfilled.

8. The facts constitute a substantial and important legal ground which directly affects the validity of the auction sale challenged in the present SA. The said ground could not specifically pleaded earlier as the petitioners became aware of the same only subsequently.

9. It is stated that permitting the petitioners to raise the additional grounds would not cause any prejudice to the respondents. On the contrary, the real controversy between the parties can be effectively and completely adjudicated only if all the relevant facts and grounds are brought before this Tribunal.

10. The proposed additional grounds are necessary for determining the legality and validity of the auction sale and are required to be considered in the interest of justice.

Counter of 1st Respondent Bank

11. The 1st Respondent bank did not choose to file its counter.

Counter of 2nd Respondent Bank

12. It is stated that the averments in the affidavit filed in support of the applicant are all false. The ground relating to the failure of the auction purchaser to pay the balance 75% of the sale consideration within the time prescribed under Rule 9(4) of the SIE (Rules), 2002 arose only subsequent the filing of the SA is false. It is false to state that the applicants were not in a position to raise the said ground at the time of filing the SA. The applicants have no rights to raise the additional grounds and the application is liable to be dismissed.

13. It is false to state that the statutory scheme of SARFAESI Act does not permit payment of the balance consideration beyond a maximum period of 90 days from the date of confirmation of sale. It is false to state that there was no stay granted by this Tribunal restraining the auction sale or prohibiting the auction purchaser from remitting the balance sale consideration. It is false to state that the Tribunal by order dated 3.9.2024 merely directed that the sale transaction shall be subject to the

result of SA No.412 of 2024. It is false that there existed no legal impediment whatsoever for the auction purchaser to pay the balance 75% of the sale consideration within the statutory period. It is false to state that failure to do so constitutes a clear violation of Rule 9(4) of SIE (Rules), 2002 and renders the auction sale liable to be declared invalid are utterly false.

14. It is false to state that the failure of the auction purchaser to pay the balance sale consideration within the time prescribed under the Rules renders the auction sale illegal, unenforceable and liable to be set aside. It is false to state that the sale does not attain finality when the mandatory conditions governing the sale have not been fulfilled.

15. The averments made in paragraphs 9 and 10 are false. It is false that the proposed additional grounds are necessary for determining the legality and validity of the auction sale and are required to be considered in the interest of justice.

16. It is stated that the applicants have mortgaged the SA schedule of property with the 1st Respondent Bank and availed loan from the 1st respondent bank and purposely evaded to repay the said loan. Since the applicants have failed to repay the loan the 1st respondent bank has initiated recovery proceedings under the SARFAESI Act. Therefore, the 1st respondent bank issued a sale notice dated 15.7.2024 for the sale of the mortgaged property. The 1st respondent bank has fixed the auction

dated on 28.8.2024. The applicants have received the sale notice and even after the sale notice also the applicants have not come forward to pay the outstanding dues to the 1st Respondent Bank.

17. The 1st Respondent Bank on 15.7.2024 issued paper publications regarding the auction of the schedule property. The 1st respondent fixed the reserve price as Rs.1.63 crores. The 2nd respondent participated in the auction held on 28.8.2024 and purchased the property for a sum of Rs.1,63,50,000/-. As a successful bidder the 2nd respondent have deposited a sum of Rs.40,87,500/- to the 1st respondent bank.

18. The successful bidder was ready to pay the balance auction amount. At this stage the applicants have filed SA No.412 of 2024 before the Tribunal. The Tribunal passed conditional order dated 3.9.2024 and the applicants complied with the condition and filed memo to that effect. The 2nd respondent was not a party to the proceedings at the time of passing order and no notice was served to me regarding the said order.

19. The 2nd respondent was ready to deposit the balance amount, the 1st respondent bank has represented that the Tribunal has issued a blanket stay to the sale proceedings by order dated 3.9.2024 and hence 2nd respondent has not deposited the balance amount. After that the applicants filed IA No.1859 of 2024 to implead the auction purchaser as

2nd Respondent and the same was allowed on 13.11.2024 while the 2nd respondent was in Georgia.

20. The 2nd respondent is ready and willing to deposit the balance amount. It is stated that after impleadment as there was no progress in the case he filed CRP No.1214 of 2026 before the Hon'ble High Court of Madras to dispose of SA No.412 of 2024 on merits within time frame as stipulated by the Hon'ble High Court and the Hon'ble High Court has directed this Tribunal to dispose the case within a period of four months.

21. The 2nd respondent had already deposited the huge amount and also ready to pay the balance amount and also to dispose of the case early. Only due to the blanket stay the 2nd respondent was not able to deposit the balance auction amount.

22. The additional grounds are not necessary grounds to decide the SA. The reasons stated in the application are false and baseless. The applicants have filed this application only to drag on the proceedings. This application is liable to be dismissed.

<u>Point for consideration</u>

23. After hearing the parties and after perusing the records the only point that arises for consideration is "**Whether the present application is liable to be allowed?"**

24. Heard the learned counsel appearing for the applicants, the learned counsel for the 1st respondent Bank and the learned counsel for the 2nd respondent/auction purchaser and perused the records.

25. The present application has been filed seeking permission to raise an additional ground alleging that the 2nd respondent/auction purchaser failed to deposit the balance 75% of the sale consideration within the period prescribed under Rule 9(4) of the Security Interest (Enforcement) Rules, 2002. According to the applicants, the said fact came to their knowledge only subsequently and, therefore, they could not raise the same at the time of filing the S.A.

26. The respondents have opposed the application contending that the applicants were aware of the auction proceedings and that the present application has been filed only to delay the disposal of the S.A. The 2nd respondent has further contended that he was ready and willing to pay the balance sale consideration, but could not do so as the 1st respondent Bank informed him that the Tribunal had passed an order restraining the sale proceedings.

27. At this stage, this Tribunal is only required to consider whether the applicants should be permitted to raise the proposed additional

ground and not to decide the correctness of the said ground on merits. The proposed ground relates to the alleged non-compliance of Rule 9(4) of the Rules and directly concerns the validity of the auction sale which is under challenge in the S.A.

28. The rival contentions regarding the effect of the order dated 03.09.2024, the circumstances under which the balance sale consideration was not paid, and whether there was any valid extension or justification for such non-payment are matters which require consideration on merits in the main S.A. Therefore, the same cannot be conclusively decided at this stage.

29. No prejudice would be caused to the respondents by permitting the applicants to raise the additional ground, since the respondents will have an opportunity to file their reply and contest the said ground. On the other hand, refusing permission at this stage may result in the relevant issue concerning the validity of the auction sale not being effectively adjudicated in the present proceedings.

30. In view of the above, this Tribunal is of the considered view that the proposed additional ground is relevant and necessary for the effective and complete adjudication of the dispute between the parties. Accordingly, the point for consideration is answered in favour of the applicants.

31. In the result, the following:

ORDER

(a) IA No.928 of 2026 is allowed.

(b) The applicants are permitted to raise the additional ground relating to the alleged violation of Rule 9(4) of the Security Interest (Enforcement) Rules, 2002.

(c) The applicants are directed to amend the SA and file amended SA after serving copies to the other side **within one week from today**.

(d) The respondents are at liberty to file their additional counter, if any, **within a period of one week from today** and contest the said ground in the main S.A.

32. As there is a **direction from the Hon'ble High Court of Madras for disposal of the SA within a period of four weeks** from the date of receipt of the copy of the order, **Post this matter on 25.08.2026 for arguments**.

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 14th day of August, 2026)