IN THE DEBTS RECOVERY TRIBUNAL-2, KERALA
AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated this the 17th day of August, 2026

SECURITIZATION APPLICATION No.553/2024

Between

1. Joy Varghese, (Died)
S/o.V.C. Varghese,
Proprietor Vanakudiyil
Oil Agencies,
residing at
Vanakudiyil House,
Pullamkandam,
Kathilapoovan,
Thrissur,
Pin – 680 028.

Addl.2. Wilsy,
W/o.Late Joy Varghese,
residing at
Vanakudiyil House,
Pullamkandam,
Kathilapoovan,
Thrissur,
Pin – 680 028.

Addl.3. Jolins Joy,
S/o.Late Joy Varghese,
residing at
Vanakudiyil House,
Pullamkandam,
Kathilapoovan,
Thrissur,
Pin – 680 028.

Addl.4. Joyal Joy,
S/o.Late Joy Varghese,
residing at
Vanakudiyil House,
Pullamkandam,
Kathilapoovan,
Thrissur,
Pin – 680 028. …Applicants

[Additional 2 to 4 applicants were impleaded as per Order dated 11.03.2026 in IA No.4428/2025]

And

The Authorised Officer,
Central Bank of India,
Thanikundam Branch,
C.P. Towers,
Thanikundam,
Kurichikkada,
Thrissur,
Pin – 680 028. …Defendant

This Securitization Application having been heard on 17.07.2026 in the presence of Advocate Mr.N.K. Mohanlal for the applicants and Advocate Mr. K.P. Sujesh 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 defendant 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 deceased borrower filed this SA under S.17(1) of the SARFAESI Act seeking relief to set aside the entire securitization proceeding starting from the stage of issuance of the demand notice.

Brief facts of the case:

2.1. After death of the borrower, Applicants 2 to 4, being substituted as his legal representatives, claimed that their predecessor availed three loans from the defendant by mortgaging two items of properties. Due to default, a demand notice u/s.13(2) of the SARFAESI Act was issued on 06.12.2023 calling to repay the outstanding amount of ₹32,64,829/- in cash credit account No.3368855345 and a separate demand notice was issued on the same date in respect of Housing loan Account No.3982854589 and OD Top up loan Account no.4041067048 calling to repay the outstanding amount of Rs.20,33,789/-. On receipt of the same, the original borrower raised objection u/s.13(3-A) of the SARFAESI Act claiming that the loan was classified as NPA illegally in violation of the RBI guidelines and also the security interest is not registered in the Central Registry. A reply to such objection was given by the defendant but not within the time.

2.2 The deceased borrower approached the Hon'ble High Court in WP(C) No.23504/24 praying to quash the SARFAESI proceedings and to declare the entire proceedings as illegal. The same was disposed by a judgment dated 19.07.2024 giving opportunity to raise the contention before the Tribunal. Accordingly, the SA is filed in challenging the possession notice with prayer to set aside the securitization proceeding starting from the stage of issuance of the demand notice.

2.3. During pendency of the SA and after death of the original applicant, the defendant initiated proceeding by filing application u/s.14 of the SARFAESI Act bearing MC no.12854/2025 before the CJM, Thrissur to take physical possession of one of the secured assets, of an extent of 9.068 cents in Re. Sy No.37/8 and Sy. No.705/9 mortgaged for Housing loan and OD-Top up loan. After amending the SA, the present applicants challenged such proceeding with a prayer to set aside the same.

3. The defendant filed written statement denying the averments and claimed that there is no illegality in the securitization proceeding. The original borrower Mr. Joy Varghese and his wife availed various credit facilities by creating equitable mortgage in respect of their land having an extent of 3.67 Ares and other properties described in the demand notice. Due to default, in the OD Top up loan, the same was classified as NPA on 23.06.2023

and consequently other Housing loan of the same borrowers was classified as NPA on 29.07.2023, in accordance with the circular issued by the RBI followed by issuance of demand notice u/s.13(2) of the SARFAESI Act in respect of above two loans. In respect of the cash credit loan, the same was also classified as NPA on 28.06.2023 for which separate demand notice was issued. There is no illegality or irregularity in the securitization proceeding. The secured asset was duly registered in the CERSAI portal. 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. The learned counsel for the applicants contended that the original applicant Late Joy Varghese obtained three loans i.e. OD top-up facility of ₹10,00,000/-, housing loan of ₹10,00,000/-

and cash credit of ₹30,00,000/- from the defendant. A demand notice u/s.13(2) of the SARFAESI Act was issued on 06.12.2023 calling the deceased applicant and his wife, 2nd applicant to repay the outstanding amount of ₹32,64,829/- in respect of the cash credit loan. On the same day a separate demand notice was issued to them in respect of other two loans calling to repay the outstanding amount of Rs.20,33,789/-. The deceased applicant raised objection through his counsel that the loans were classified as NPA without following the guidelines of the RBI and excess interest is charged in the loan account. It is contended by the learned counsel for the applicant that the defendant has not given any reply to the objection within the statutory period as prescribed. Reply given on 30.05.2024 cannot be construed as due compliance of the statutory provision. Subsequently, the defendant initiated proceeding u/s.14 of the SARFAESI Act, impleading the LRs of original applicant, who died in the meantime, and the learned CJM passed an Order in appointing an advocate commissioner to take physical possession of the secured asset which is challenged by amending the SA. It is claimed that the security interest is not duly registered in the CERSAI Portal at the time of issuance of the demand notice and the entire securitization proceeding is vitiated.

The authorized officer, having not duly complied the proviso to the sec 14 of the SARFAESI Act in the declaration filed before the learned Chief Judicial Magistrate, the proceeding is also vitiated and the order of the learned Chief Judicial Magistrate cannot be enforced in respect of the secured asset.

6. In refuting the contention, the learned counsel for the defendant would contend that the security interest created in respect of Survey Number 705/9 for the cash credit loan is registered in the CERSAI Portal on 18.08.2014. There was no illegality in the registration. Mistake in description of the secured asset was rectified subsequently. The OD Top up loan availed by the deceased applicant and his wife turned NPA. Consequently, the housing loan availed by the same borrowers in one customer ID was classified as NPA as per the master circular issued by the RBI. In the absence of any illegality in the securitization proceedings, the SA is not maintainable and the same may be dismissed.

7. The SARFAESI Act postulates that before issuance of the demand notice, it is essential on the part of the secured creditor to classify the loan as NPA, keeping in view of the guideline issued by the RBI. Housing loan and the OD Top up loan were availed by the deceased borrower and his wife 2nd applicant jointly in one

customer ID, which is not disputed. From the demand notice Annexure A1, it appears that OD top up loan was not within the limit of Rs.10,00,000/- and consequently, the same was classified as NPA. As per cl.4.2.7 of Master circular-Prudential Norms on Income recognition, Asset Classification and Provisioning pertaining to Advances issued by the RBI, asset classification shall be on borrower wise. The contention of the learned counsel for the applicant that in respect of Housing loan account No.3982854589, having within the limit of ₹10,00,000/- cannot be treated as NPA on 29.07.2023, is not acceptable in view of the circular of the RBI as stated earlier and there was no illegality in classifying the Housing loan as NPA.

8. Availing of cash credit loan by the original borrower Late Joy Varghese as proprietor of M/s Vanakudiyil Oil Agencies and his wife 2nd applicant stood as guarantor for the said loan by mortgaging Survey No.705/9 (Re-sy. No.37/8) of an extent of 9.068 cents of land along with other property is not disputed. So also availing of other two loans i.e. Housing loan and OD Top up loan by the deceased borrower and along with his wife by mortgaging the Sy. No.705/9 (Re sy. No. 37/8) of an extent of 9.068 cents of land is not disputed. The defendant issued a demand

notice on 06.12.2023 to Joy Varghese and his wife, who stood as a guarantor for the loan availed by her husband in respect of cash credit loan, calling them to repay the outstanding of an amount of Rs.32,64,829/-. So also, another demand notice was issued to borrower Joy Varghese and his wife on the same date on 06.12.2023 calling them to pay the outstanding of Rs.20,33,789/- in other two loans. After receipt of the demand notice, the borrower Joy Varghese submitted objection through an advocate u/s.13(3-A) of the SARFAESI Act claiming the loan accounts were not classified as NPA as per the guidelines of the RBI and the calculation of rate of interest is not proper. The defendant has not given any reply to such objection within the statutory period of 15 days as prescribed u/s.13(3-A). Rather it was given on 30.05.2024 marked Annexure-A4 stating that the loan was classified as NPA in accordance with the guideline of the RBI. Giving reply to the objection u/s.13(3-A) of the SARFAESI Act within 15 days of the receipt of such of the representation or objection is mandatory. But the reply was given after nearly four months in contravention of the statutory requirement which is not permissible.

9. Annexure-B1 CERSAI Certificate indicates that the security interest created on 07.02.2009 in respect of Sy No.705/9

of an extent of 4.56 cents was registered in the CERSAI portal on 18.08.2014. Annexure-B2 CERSAI certificate indicates that SI in respect of Re.Sy No.37/8 of 9.07 cents was created in the bank on 29.10.2025 and the same is registered on the same date. The learned counsel for the defendant stated that in the counter affidavit, the defendant has explained that at the time of availing the loan, the mortgage in respect of 3.67 Ares (equivalent to 9.068 cents) was created but erroneously in the certificate marked Annexure-B1, the area is described as 4.56 cents, which was modified on 29.10.2025. Hence it did not cause any prejudice to the applicant and the contention of the learned counsel for the applicant is not acceptable.

10. It is seen from the demand notice; the secured asset is described as per Survey No.705/9, Re-survey No.37/8 of an extent of 9.068 cents. Annexure-B1 CERSAI Registration certificate indicates Survey No.705/9 of an extent of 4.56 cents. The same was not corrected at the time of issuance of the demand notice which was rectified in the CERSAI portal long after taking enforcement measures during pendency of the SA. Taking enforcement measure in respect of the secured asset of an extent of 9.068 cents of land without rectifying in the CERSAI Registration

is illegal in view of the bar contained in Sec.26-D of the SARFAESI Act.

11. The original applicant challenged non-compliance of the statutory requirement in issuing possession notice u/s 13(4) of the SARFAESI Act for which demand notices were issued. The defendant has not produced any material showing compliance of the statutory requirement in issuing the possession notice. In absence of compliance of the statutory requirement, measure u/s 13(4) of the SARFAESI Act is also vitiated.

12. Application under sec.14 of the SARFAESI Act was filed by the Authorized officer before the learned Chief Judicial Magistrate to take possession of the secured asset mortgaged for the Housing loan and OD Top up loan. Objection under sec.13(3A) of the SARFAESI Act was submitted by the deceased borrower after receipt of the demand notice and the defendant has given reply not within the statutory period. In the affidavit filed by the authorized officer before the Chief Judicial Magistrate, he has stated that no objection is filed by the borrower after receipt of the demand notice. The Authorized officer has not acted sincerely in swearing the declaration before the learned CJM. It is true that the Statue has given ample power to the secured creditor to enforce the

security interest without assistance of any court of law but it does not empower the secured creditor or the Authorized officer to proceed in the securitization proceeding without compliance of the statutory requirement. All the statutory measures, having not properly and duly complied, the defendant cannot enforce the security interest. However, the defendant may proceed afresh from the stage of issuance of a fresh demand notice in respect all the three loans, in accordance with the law, to recover the outstanding dues. Hence the points framed are answered in favour of the applicants.

Hence it is ordered:-

ORDER

13. In view of the foregoing reasons, the SA is allowed and the entire securitization proceeding is hereby set aside, but in the circumstances without costs.

(Dictated to my steno, corrected and pronounced by me in the open Tribunal on this the 17th day of August, 2026)

[SOVAN KUMAR DASH]
PRESIDING OFFICER

Documents on the part of the applicant

Annexures	Date	Particulars of documents
A1	06.12.2023	True copy of demand notice u/s.13(2) of SARFAESI Act for ₹9,38,134/-.
A2	06.12.2023	True copy of demand notice u/s.13(2) of SARFAESI Act for ₹32,64,829/-.
A3	01.01.2024	True copy of objection under Section 13(3A) of the SARFAESI Act.
A4	30.05.2024	True copy of reply issued by defendant to Annexure A3 objection.
A5	02.07.2024	True copy of possession notice affixed on the secured asset.
A6	02.07.2024	True copy of possession notice affixed on the secured asset.
A7	19.07.2024	True copy of judgment of Hon'ble High Court in WP(C)No.23504/24.
A8	-	True copy of Section 14 petition together with affidavit filed before the CJM, Thrissur.
A9	15.12.2025	True copy of Order in Crl.M.P.12854/2025 of the CJM, Thrissur.
A10	26.02.2026	True copy of notice issued by the advocate commissioner.

Documents on the part of the defendant

Annexure	Date	Particulars of documents
B1	18.08.2014	True copy of registration particulars of the secured asset with the Central Registry. (4.56 cents in Sy.No.705/9)
B2	29.10.2025	True copy of registration particulars of the secured asset with the Central Registry. (9.07 cents in Sy.No.37/8)

PRESIDING OFFICER

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KERALA AT ERNAKULAM

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SA No.553/2024

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And

The Authorised Officer,
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F I N A L O R D E R