Fair Order

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI
DATED THIS 21st DAY OF AUGUST, 2026
PRESENT: SEEMA SINHA
[PR. DISTRICT & SESSIONS JUDGE - Retd]
PRESIDING OFFICER

SA No. 350/2023

1. Mr. P. Pandian,
   S/o Periyakaruppa Thevar,
   Door No. 402, Main Road,
   U. Ambasamudram, 6th Ward,
   U. Ammapatti, Uthamapalayam Village,
   Theni District, Tamil Nadu – 625 533.

2. Mr. P. Ajith,
   S/o P. Pandian,
   Door No. 402, Main Road,
   U. Ambasamudram, 6th Ward,
   U. Ammapatti, Uthamapalayam Village,
   Theni District, Tamil Nadu – 625 533. .... Applicants

Vs

1. Indian Overseas Bank,
   Rep. by its Authorised Officer,
   Regional Office, Madurai,
   Plot No. 40, 80 Feet Road,
   Arignar Anna Nagar,
   Madurai – 625020. .... 1st Defendant Bank

2. The Branch Manager,
   Indian Overseas Bank
   Uthamapalayam Branch,
   Theni District. .... 2nd Defendant Bank

3. Mr. Muhammad Agai,
   No. 1, Lourdu Nagar 1st Street,
   K. Pudur, Madurai – 625007. .... 3rd Defendant/Auction Purchaser

Appearance of Advocates:
M/s.M.Suresh ---- Counsel for the Applicants
M/s.R.M.Ajay Parthiban ---- Counsel for the 1st & 2nd Defendant Bank
M/s.M.U.Shameem John ---- Counsel for the 3rd Defendant / Auction Purchaser

This SARFAESI Application was heard in the presence of Counsels for the Applicant, 1st & 2nd Defendants Bank, 3rd Defendant/Auction Purchaser and fixed for passing final order before me and upon hearing the arguments of the Counsels and having stood over for consideration till this day, this Tribunal delivered the following:

O R D E R

1. This Application has been filed under Section 17 of the SARFAESI Act, 2002 by the Applicants praying that this Hon'ble Tribunal may be pleased to call for the records pertaining to the initiation of proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, ending up with the impugned e-Auction sale dated 15.07.2023 conducted by the Defendants under Section 13(4) of the SARFAESI Act, 2002, and to set aside the same and pass such other and further reliefs as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case, and thus render justice..

2. The brief averments of the Application filed by the Applicants are as follows:-

a) That the Applicants are the borrowers and had borrowed a sum of Rs. 28,50,000/- on 01.01.2015 as a term loan in Account No. 191903951500001 from the 2nd Defendant's branch, and the Applicants repaid the due amount regularly. The 1st Applicant has availed the above loan by pledging the properties mentioned in the schedule for the medical studies of the 2nd Applicant. The Defendants, instead of sanctioning an education loan, sanctioned a term loan without informing the Applicants.

b) The Applicants further submitted that they have been very regular in repayment and, to their shock and surprise, the 1st and 2nd Defendants charged heavy interest, which is not at all prescribed by the R.B.I. for the above loan, and they hurriedly classified the Applicants' loan account as NPA without giving proper notice to the Applicants. Whenever the Applicants approached the 1st and 2nd Defendants for a statement of account and to know the mode of adjustment of the repayments made by the Applicants, the Defendants failed to provide the same. Further, the Defendants failed to extend the facilities provided by the R.B.I. available for educational loans. The 1st and 2nd Defendants failed to adhere to the norms and rules prescribed by the R.B.I. for educational loans. The 1st and 2nd Defendants have charged exorbitant interest, and such illegal charging of interest will attract the Tamil Nadu Prohibition of Charging Exorbitant Interest Act.

c) The Applicants further submitted that the 1st and 2nd Defendants did not issue the Demand Notice properly and failed to issue the Possession Notice under the provisions of the SARFAESI Act, demanding repayment. As the 1st Applicant is an agriculturist and the 2nd Applicant is a student, their condition is pitiable due to natural calamities and failure of monsoon, and hence the Applicants could not repay the loan to the Defendants. The 1st Defendant, without giving any opportunity, issued umpteen numbers of e-auction sale notices dated 05.01.2023, 21.02.2023, 18.04.2023, and finally on 23.06.2023. The 1st Defendant conducted the e-auction sale on 15.07.2023 in pursuance of the e-auction sale notice dated 23.06.2023 by invoking the SARFAESI Act for the alleged outstanding amount of Rs. 54,39,000/-. The 3rd Defendant was declared as the auction purchaser. Though the Applicants approached the 1st and 2nd Defendants to revive the loan account and also for one-time settlement, the same was not

considered by the 1st and 2nd Defendants. Further, to show their bona fides, the Applicants paid a sum of Rs. 5,00,000/-, but the same was not considered by the 1st and 2nd Defendants, and now the 1st and 2nd Defendants are trying to confirm the sale in favour of the 3rd Defendant hurriedly and have communicated the same to the Applicants vide their communication dated 27.07.2023.

d) The Applicants further submitted that they had been paying interest regularly towards the 1st and 2nd Defendants' bank loan account from the beginning onwards. Due to certain financial crises in the 1st Applicant's agricultural activities and because of poverty, demonetisation, and new schemes of GST introduced by the Government, the local economy was adversely affected, and the agricultural operations were severely impacted. The routine day-to-day retail business of agricultural produce also came down. Hence, the Applicants were not able to pay the interest within the stipulated period. In these hard circumstances, the Authorised Officer failed to understand the impact of calamities which affected the practical business due to the GST regime, demonetisation, and the COVID-19 pandemic crisis. Further, the Defendants, without giving a breathing opportunity to the Applicants to regulate the inflow and outflow of money in the Applicants' agricultural process, hurriedly proceeded against the Applicants during the post-pandemic COVID-19 situation.

e) The Applicants further submitted that so far they have repaid approximately a sum of Rs. 20,00,000/-. Even though the Applicants have paid a considerable amount towards their loan account, those amounts have not been properly adjusted towards the principal amount and have been adjusted only towards interest, which shows that the account is still active, and hence the declaration of NPA is not correct, as the account statements reflect

regular payment of interest. Therefore, the 1st and 2nd Defendants ought not to proceed further without properly considering the payments made by the Applicants. Further, the 1st and 2nd Defendants, without considering the financial crisis and the earlier payments made by the Applicants, have simply issued the notice and are also threatening the Applicants orally that they will sell the properties mentioned in the notice by any means.

f) The Applicants further submitted that the 1st and 2nd Defendants have failed to follow the statutory mandates while issuing the statutory notice under Section 13(2) and the Possession Notice. They have also not published the paper publication as required under Section 13(4) of the SARFAESI Act. Instead, they have straightaway issued the Sale Notice without complying with the mandatory requirement of publication under Section 13(4) as per the Act. The 1st and 2nd Defendants are thereby violating the mandatory provisions of the SARFAESI Act and Rules.

g) The Applicants further submitted that the interest charged by the 1st and 2nd Defendants is arbitrary and contrary to Section 34 of the Code of Civil Procedure. The Defendants are well aware that the rate of interest collected by the 1st and 2nd Defendants is exorbitant and is against the R.B.I. guidelines and the Master Circular of the R.B.I. relating to housing loans.

h) The Applicants further submitted that the declaration of NPA itself is wrong. The 1st and 2nd Defendants have failed to issue prior notice before declaring the account as NPA, and they have not followed the R.B.I. guidelines in the classification of NPA. Further, the 1st and 2nd Defendants have not properly followed the required procedure while declaring the account as NPA. The Sale Notice was

also not issued with proper particulars of the schedule-mentioned property.

i) The Applicants further submitted that the 1st and 2nd Defendants failed to issue the account statement to the Applicants and, without following the SARFAESI Act and Reserve Bank guidelines, erroneously declared the Applicants' account as NPA and sold the schedule-mentioned property without following due procedure. Simultaneously, the 1st and 2nd Defendants Bank continued to treat the Applicants' account as active by charging interest as well as penal interest and by capitalising the interest as principal amount.

j) The Applicants further submitted that the sale conducted by the 1st and 2nd Defendants is mala fide, as they sold the property to the 3rd Defendant for a sum of Rs. 38,20,000/-, which is very meagre, whereas the schedule-mentioned properties would fetch around Rs. 2 crores. The 1st and 2nd Defendants, by issuing various sale notices, have reduced the value of the schedule-mentioned property in order to facilitate the bidder to purchase the property, in collusion with him. The Defendants, by conducting the sale without following due procedure, have thereby deprived the Applicants of their property rights guaranteed under Article 300-A of the Constitution of India, and hence the same is liable to be set aside.

k) The Applicants humbly submit that, being aggrieved over the e-auction sale conducted on 15.07.2023 by the 1st and 2nd Defendants, the Applicants are filing this SARFAESI application on the following grounds:-

- The Defendants 1 and 2 Bank did not send any communication in response to the request of the Applicant, as mandated under Section 13(3A) of the SARFAESI Act.

- The Defendants 1 and 2 are charging excessive interest in contravention of the provisions of Section 34 of the Code of Civil Procedure.

- The Defendants 1 and 2 have failed to register the alleged transactions with the Central Registry as required under Section 20 of the SARFAESI Act.

- The Defendants 1 and 2 have not published the Possession Notice and e-auction sale notice in newspapers as required under the SARFAESI Act.

- The Defendants 1 and 2 have never mentioned the exact outstanding amount in the notice issued under Rule 8(6).

- The Possession Notice, Sale Notice, and the impugned order issued by the 1st Defendant are ultra vires, illegal, unconstitutional, inconsistent, and bad in the eye of law.

- The Possession Notice and Sale Notice were not affixed by the Authorised Officer of the Bank on the schedule of the property, which is in violation of the mandatory provisions of the SARFAESI Act.

- The Defendants 1 and 2 have failed to consider that the subject matter properties are dwelling houses.

- The Defendants Bank were treating the Applicants' account as active while simultaneously charging interest as well as penal interest and

capitalising the interest as principal amount. Further, the Defendants have been charging exorbitant amounts under various heads, though the Applicants were regular in repayment, and are now demanding an amount higher than the actual liability of the Applicants.

The Applicants in their Written Arguments, stated that as follows:

l) It is submitted that, after hearing the submissions made by the Applicants and the Defendants, this Hon'ble Tribunal has passed an ad-interim stay dated 26.09.2023 with a condition to pay the entire suit amount (Rs. 49,37,171/-) in seven equal installments directly to the 2nd Respondent, and the same was duly complied with by the Applicants within time. However, the same was not considered by the Respondents, and they refused to return the original documents.

m) The defendant bank has not properly assessed the property value and has undervalued the same. The defendant, deliberately and with mala fide intention, failed to disclose the superstructures constructed thereon in Old Natham Patta No. 1568, Old Natham Survey No. 1632/1, New Natham Survey No. 1632/22, bearing Door No. 402, and slated the house site for sale without valuing the building constructed thereon.

n) The outstanding liability is Rs. 54,39,000/- and is highly excessive and in contravention of the terms and conditions of the sanction memorandum. Unilaterally, the interest has been charged on monthly rests, thereby the liability has been swollen manifold.

o) The rate of interest has not been mentioned in the Demand Notice, Possession Notice, and e-auction sale notice. The interest charged is not in consonance with the terms and conditions of the sanction memorandum.

p) The non-description of the property and non-obtaining of valuation report from the panel valuer registered under Section 97-AB of the Wealth Tax Act is in gross violation of the mandatory requirements of the Security Interest (Enforcement) Rules, 2002, and the impugned sale notice is liable to be quashed on that ground itself.

q) It is submitted that, as per the order of this Hon'ble Tribunal, the Applicants have paid Rs. 49,37,171/- to the Respondent Bank within the stipulated time and after making the entire dues. However, now the Respondents are demanding further amount and charges and have refused to release the original documents pledged by the Applicants, which is against law.

SCHEDULE OF PROPERTY

Item No. – 1

Theni District, Periyakulam Registration District, Uthamapalayam Sub-Registration District, Uthamapalayam Village, Residential house site, Survey No. 2062/2, bounded on the:

North : House sites sold by Manthiri Raj Kapoor
South : East to West common pathway
East : Part of this total extent belonging to P. Mohammed Ali Jinnah
West : ½ cent common pathway

Within these boundaries, residential house sites measuring 8¼ cents, equivalent to 3,596 square feet on the western side out of 16½ cents, excluding ½ cent on the western side out of 17 cents, along with all its usual pathway rights, wall rights, and water let-out rights, etc. This property is within Uthamapalayam Town Panchayat limits.

Item No - 2

Theni District, Periyakulam Registration District, Uthamapalayam Sub-Registration District, Uthamapalayam Village, U. Ammapatti Panchayat, 6th Ward, U. Ambasamudram, Residential house bearing Door No. 402 (Assessment No. 1925), Old No. 1625, bounded on the:

North : Common wall and house of Muthuchamy
South : Street
East : Road
West : 2½ feet own lane and house of Kannaiar

Within these boundaries, residential house measuring East to West 45½ feet and South to North 20½ feet, equivalent to 932¾ square feet, fitted with Electric Service Connection No. S-66 and Water Service Connection No. 34, along with all its usual pathway rights, wall rights, and water let-out rights, etc. This property is within U. Ammapatti Panchayat limits. This property is situated in Natham Patta No. 1568, Old Natham Survey No. 1632/1, New Natham Survey No. 1632/22.

The Applicants have submitted the following List of documents in support of their claim in the SA, which are as follows:

S.No.	Date	Details of Documents
1.	01.10.2022	Copy of the Demand Notice
2.	19.12.2022	Copy of the Possession Notice
3.	05.01.2023	1st e-Auction Sale Notice.
4.	21.02.2023	2nd e-Auction Sale Notice.
5.	18.04.2023	3rd e-Auction Sale Notice.
6.	23.06.2023	4th e-Auction Sale Notice.
7.	27.07.2023	Copy of the Communication from the Defendant bank

Additional Typedset of Papers filed by the Applicants on 24.11.2023

S.No.	Date	Details of Documents
1.	26.10.2023	Photostat Copy of Payment Receipt

3. On the other hand, the Counsel for the 1st & 2nd Defendants Bank appeared before this Tribunal and filed Caveat Petition No. 335/2023, (in which he has filed Sale Notice dated 23.06.2023) Reply Statement, Typed Sets, and Written Submission, in which the contentions that are specifically and expressly admitted herein are alone admitted. All other allegations and contentions raised by the Petitioners in the affidavit filed in support of the stay petition and in the main application are denied as false, and the Petitioners are put to strict proof of the same.

a) The Applicants herein had availed a term loan facility for a sum of Rs.28,50,000/- for the educational needs of the 2nd Applicant, and the same was sanctioned, and all necessary loan documents were executed on 14.01.2015. In consideration of the credit facility availed, the Applicant and his wife had deposited their title deeds with the Defendant Bank, and a Memorandum of Deposit of Title Deeds was made on 06.01.2015 in Doc No. 11 of 2015.

b) It is submitted that, despite sufficient opportunity, the borrower failed to regularize the overdraft loan account, and with no other alternative, the loan account was classified as a Non-Performing Asset on 29.09.2022.

c) It is submitted that the demand notice was issued on 01.10.2022 to the borrower and guarantor through registered post to their respective addresses. The said notice was duly delivered, and the acknowledgment cards are attached in the typed set of papers.

Further, the borrower did not make any representation or raise any objection to the demand notice.

d) It is submitted that the statutory possession notice under Section 13(4), in strict compliance with the statutory prescriptions, was issued by the Defendant Bank on 19.12.2022 and the same was published in two newspapers—Dinamani (Tamil) and The Indian Express (English) on 22.12.2022. The said notice was sent to the borrower and guarantors through registered post to their respective addresses, and the same was duly delivered. The notice was also affixed on the property. The acknowledgment cards of the possession notice, along with proof of compliance of statutory requirements of publication in two newspapers—one in vernacular language—and the affixture of the possession notice on the property, are all attached in the typed set of papers.

e) It is submitted that the Defendant Bank had issued sale notices on 05.01.2023, 21.02.2023, 18.04.2023, and 24.05.2023 by following the provisions of the SARFAESI Act. The Applicants had not challenged any of those notices before any forum.

f) It is submitted that the Defendant Bank had issued the 5th sale notice on 23.06.2023, and the same notice was sent to the borrower and guarantors through registered post and was duly delivered. The notice was published in two newspapers, Dinamani (Tamil) and The Indian Express (English), on 29.06.2023.

g) It is submitted that the sale was held on 15.07.2023 and the sale was confirmed in favour of the 3rd Defendant, who had paid the entire sale proceeds. The same was communicated to the Applicants by letter dated 27.07.2023.

h) It is submitted that the sale notice was issued on 23.06.2023. The sale was conducted on 15.07.2023, and the sale certificate was issued on 23.08.2023.

i) It is submitted that the Apex court in Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd., 2023 SCC OnLine SC 1209…

> *The confirmation of sale by the bank under Rule 9(2) of 2002 Rules gave successful auction purchaser the vested right to obtain a sale certificate as per Rule 9(6) of SARFAESI Act, and* ***the right of the borrower to redeem the secured asset stood extinguished on the very date of publication of auction notice.***

The Court directed the bank to refund the entire amount deposited by the borrowers, i.e., Rs 129 Crores paid in lieu of redemption of mortgage of secured asset. It further directed the appellant to pay an additional amount of Rs 23.95 Crores to the bank in turn, the bank would issue sale certificate as per Rule 9(6) of the Rules of 2002….

j) The averments raised in paragraphs (a) to (c) are denied as false. The Applicant had deposited the title deeds with the 1st Defendant Bank, and the same constitutes the secured asset of the Bank for the credit facility availed by the Applicant. The Bank has the right to bring the secured asset for sale as per the SARFAESI Act for recovery of the outstanding loan amount.

k) The averments raised in paragraph (b) are denied as false. The Defendant Bank had issued the demand notice on 01.10.2022. The Applicants had not made any objection or reply to the demand notice as mandated under the Act. They have not produced any record to prove the grounds raised.

l) The averment raised in paragraph (e) is denied as false. The Defendant Bank has not charged any interest other than that agreed by the borrower as per the loan agreement. The Applicant has not produced any calculations to prove the point raised.

m) The averment raised in paragraph (f) is denied as false. The CERSAI registration has been duly done for the account, and proof of the same is annexed in the typed set of papers.

n) The averment raised in paragraph (g) is denied as false. The Section 13(4) possession notice, in strict compliance with the statutory prescriptions, was issued by the Defendant Bank on 19.12.2022 and the same was published in two newspapers—Dinamani (Tamil) and The Indian Express (English)—on 22.12.2022. The said notice was sent to the borrower and guarantors through registered post to their respective addresses, and the same was duly delivered. The notice was also affixed on the property. The acknowledgment cards of the possession notice, along with proof of compliance of statutory requirements of publication in two newspapers (one in vernacular language) and the affixture of the possession notice on the property, are all attached in the typed set of papers.

o) The averments raised in paragraphs (h) and (i) are denied as false. The sale notice issued by the Respondent Bank is perfectly valid, and the loan outstanding has been duly mentioned in the notice.

p) The averments raised in paragraphs (j) and (k) are denied as false. The Respondent Bank has complied with Rule 8 of the Security Interest (Enforcement) Rules, and proof of the same is annexed in the typed set of papers.

q) The averment raised in paragraph (l) is denied as false. The property is the secured asset of the Bank, and the Defendant Bank is empowered under the SARFAESI Act to recover the loan outstanding by taking measures as provided under the Act and Rules.

r) The averment raised in paragraph (m) is denied as false. The loan availed is an educational loan. The Applicant has raised a ground that the loan availed is for business purposes.

s) The averment raised in paragraph (n) is denied as false. The Defendant Bank has not charged any interest other than that agreed by the borrower as per the loan agreement. The Applicant has not produced any calculations to prove the point raised.

t) The averment raised in paragraph (o) is denied as false. The Defendant Bank had obtained a valuation report from an approved valuer, and the reserve price was fixed based on the said report. The Applicant has not produced any valuation report before this Tribunal to substantiate the allegation of undervaluation.

u) It is submitted that the only intention of the borrower is to stop the legal proceedings initiated by the Defendant Bank and to drag on the legal process. They do not have any intention to repay the loan availed.

v) The Applicant had not raised any objection to the demand notice issued under the SARFAESI Act. The possession notice dated 19.12.2022 was also not challenged. The sale notices dated 05.01.2023, 21.02.2023, and 18.04.2023 were not challenged before any forum.

w) The Applicant has challenged the present sale notice dated 23.06.2023 after completion of the sale. Knowing that a bid had been made and the sale had already taken place, the Applicant has filed the present application. This clearly reflects the attitude and bona fides of the borrower.

x) The applicant had lost the right of redemption at the instant of the publication of the first sale notice dated 05.01.2023. ***Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd., 2023 SCC OnLine Sale Certificate 1209 - " the right of the borrower to redeem the secured asset stood extinguished on the very date of publication of auction notice"*** Without considering the facts a conditional stay was also granted.

y) It is further submitted that the Bank is under a statutory obligation to take earnest steps to recover the loan outstanding. The possession notice as well as the sale notice are perfectly valid and sustainable in law, and there is absolutely no error in the said notices.

z) It is further submitted that the only intention of the borrower is to stop the legal proceedings initiated by the Bank and defeat the rights of the auction purchaser.

Therefore, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the Application with cost and thus render justice.

TYPED SET OF DOCUMENTS FILED BY THE 1st & 2nd DEFENDANTS BANK on 08.04.2025

S.No	Date	Particulars
1.	01.10.2022	Demand notice with AD Cards
2.	19.12.2022	Possession notice with AD Cards
3.	19.12.2022	Affixture photo of possession notice in the secured asset

4.	22.12.2022	Paper publication of possession notice English and Tamil Edition
5.	23.06.2023	Impugned Sale notice with AD Cards
6.	29.06.2023	Paper publcation or sale notice Enalish and Tamil Edition
7.	23.08.2023	Sale certificate

TYPED SET OF DOCUMENTS FILED BY THE 1st & 2nd DEFENDANTS BANK on 20.07.2026

SI. No	Date	Events / Description of Documents
1.	01.10.2022	Demand Notice with Acknowledgment Card (Colour Xerox)
2.	19.12.2022	Possession Notice with Acknowledgment Card (Colour Xerox)
3.	19.12.2022	Photograph of Affixture of Possession Notice (Colour Xerox)
4.	19.12.2022	Paper Publication of Possession Notice in The New Indian Express (English) and Dinamani (Tamil) on 22.12.2022 (Original)
5.	23.06.2023	Impugned 4th Sale Notice with Acknowledgment Card (Colour Xerox)
6.	23.06.2023	Photograph of Affixture of Impugned 4th Auction Sale Notice (Colour Xerox)
7.	23.06.2023	Paper Publication of Impugned 4th Sale Notice in The New Indian Express (English) and Dinamani (Tamil) on 29.06.2023 (Original)
8.	23.08.2023	Sale Certificate issued in respect of Item Nos. 1 and 2 properties in favour of the 3rd Defendant
9.	27.10.2022	Valuation Report for Item No. 1 Property (Colour Xerox)
10.	27.10.2022	Valuation Report for Item No. 2 Property (Colour Xerox)
11.	07.01.2021	Extract of CERSAI Report registered in respect of Item Nos. 1 and 2 properties (Colour Xerox)

4. On the other hand, the Counsels for the 3rd Defendant/Auction Purchaser appeared before this Tribunal filed Reply Statement, Typed Set, and Written Argument, in which he denies all the averments

contained therein, except those specifically admitted hereunder, and the Petitioners are put to strict proof of the same before this Hon'ble Tribunal.

a) It is submitted that on 15.07.2023 the Defendant No.1 conducted an e-auction for the properties situated in survey No.2062/2 in Uthamapalayam Village, Theni District for the extent about 3596 square feet of house site and a house property situated in Old Natham survey No.1632/1, New Natham Survey No.1632/22, Door No.402, 6th Ward, U.Ambasamudram, U.Ammapatti Panchayat, Uthamapalayam Village, Theni District.

b) It is further submitted that the Petitioners had availed a term loan for a sum of Rs. 28,50,000/- (Rupees Twenty Eight Lakhs and Fifty Thousand Only) by creating an equitable mortgage over the above-said properties as collateral security for the said loan before Defendant No. 2 Bank. While matters stood thus, the Petitioners committed default in repayment of the outstanding loan dues, and the loan account was classified as NPA, following which SARFAESI proceedings have been initiated by Defendant No. 1 against them.

c) It is submitted that the Defendant No. 1 had earlier issued an e-auction sale notice dated 05.01.2023, wherein the e-auction was scheduled on 10.02.2023, fixing the reserve price at Rs. 32,50,000/- for Item No. 1 property and Rs. 19,40,000/- for Item No. 2 property. However, no bidders came forward for the said auction, and the same was cancelled. Thereafter, on 21.02.2023, the Defendant No. 1 issued another e-auction sale notice, scheduling the auction on 15.03.2023 and fixing the reserve price at Rs. 30,00,000/- for Item No. 1 property and Rs. 17,00,000/- for Item No. 2 property. Once again, no bids were received due to the higher reserve price fixed by the Defendant No. 1. Subsequently, the Defendant No. 1 issued a third e-auction notice on 18.04.2023,

fixing the auction on 15.05.2023 and reducing the reserve price to Rs. 27,00,000/- for Item No. 1 property and Rs. 15,00,000/- for Item No. 2 property. Even on this occasion, no bidders came forward. Finally, on 23.06.2023, the Defendant No. 1 issued the fourth e-auction notice, scheduling the auction on 15.07.2023 and fixing the reserve price at Rs. 24,00,000/- for Item No. 1 property and Rs. 14,00,000/- for Item No. 2 property.

d) It is further submitted that, at this juncture, the Defendant No. 3 participated in the e-auction held on 15.07.2023 and quoted a bid amount of Rs. 24,10,000/- for Property ID - IOBA202211 and Rs. 14,10,000/- (Rupees Fourteen Lakhs and Ten Thousand Only) for Property ID - IOBA202212. He thereafter received a sale intimation letter through e-mail on 15.07.2023 stating that the auction result was made available in the bidder's dashboard upon logging into the MSTC website.

e) It is further submitted that the Defendant No. 3 thereafter received e-mails on 18.07.2023 titled "Sale Confirmation Letter" from Defendant No. 1 on the MSTC dashboard for the above-said two property IDs, wherein the Defendant No. 3 was required to deposit 25% of the bid amount, including 10% of the reserve price as EMD, which had been deducted from his Global EMD Wallet, not later than 19.07.2023, into the concerned branch bank account bearing Account No. 19190113301010.

f) It is further submitted that, as per the sale confirmation letter, the Defendant No. 3 paid 25% of the bid amount, including 10% of the EMD amount, totalling a sum of Rs. 6,02,500/- for Property ID - IOBA202211, and a sum of Rs. 3,52,500/- for Property ID - IOBA202212, on 00.07.2023 from the 3rd Defendant's ICICI Bank account.

g) It is further submitted that the Defendant No. 3 was further required to deposit the balance amount, being 75% of the entire bid amount, within 15 days, i.e., on or before 02.08.2023, in the concerned branch bank account. Accordingly, on 27.07.2023, he paid the remaining bid amount of Rs. 18,07,500/- for Property ID - IOBA202211, and a sum of Rs. 10,57,500/- for Property ID - IOBA202212 from his ICICI Bank account.

h) It is further submitted that, after settling the entire bid amount with Defendant Nos. 1 and 2, the Defendant No. 3 sent an e-mail to Defendant No. 1 requesting issuance of sale certificates in his favour. On 23.08.2023, after a lapse of 27 days, Defendant No. 1 issued the sale certificates vide Ref. Nos. RO/MDU/SAMD/01/2023-24 and RO/MDU/SAMD/02/2023-24 to him. Further, on the same day, Defendant No. 1 served a letter stating that the Bank had received the entire bid amount remitted by Defendant No. 3 and that the borrowers, who are the Petitioners herein, had filed an application before this Hon'ble Tribunal for stay in S.A. No. 350 of 2023 (I.A. No. 1558 of 2023) against the sale of the mortgaged properties, and the matter is pending for decision before this Hon'ble Tribunal. It was further informed that the registration of the properties would be proceeded with only after obtaining clearance from the Tribunal, and till then, the registration of the properties would be kept on hold.

i) It is further submitted that, in such circumstances, the Defendant No. 3 was served with a private notice regarding I.A. No. 1557 of 2023 in S.A. No. 350 of 2023 on the file of this Hon'ble Tribunal on 21.08.2023. Immediately, the Defendant No. 3 approached Defendant Nos. 1 and 2 in person, and they informed him that they would handle the case through their panel counsel, since the sale certificates had already been issued and the same would be filed

before this Hon'ble Tribunal. Hence, believing their words, the Defendant No. 3 failed to mark his appearance in this case. However, on 26.09.2023, when the matter was taken up for hearing, Defendant Nos. 1 and 2 intentionally suppressed the real facts regarding payment of the entire bid amount and issuance of the sale certificates and acted in a biased manner in favour of the Petitioners to obtain an interim stay.

j) It is further submitted that thereafter there was no information from Defendant Nos. 1 and 2, even after repeated e-mails were sent to them, and despite the Defendant No. 3 approaching Defendant No. 1 in person requesting the status of the case before this Hon'ble Tribunal and for registration of the properties based on the sale certificates. However, due to the non-response of Defendant Nos. 1 and 2, the Defendant No. 3 visited the website of this Hon'ble Tribunal and downloaded the interim order in I.A. No. 1557 of 2023 in S.A. No. 350 of 2023 dated 26.09.2023, wherein this Hon'ble Tribunal passed an order stating as follows:

"Be that it may so, this Tribunal is of the considered view that one more opportunity has to be given to the Petitioners/ Applicants to show their bona fides for payment of the outstanding loans due to the 2nd Respondent Bank. Hence, Ad Interim stay is granted not to confirm the sale till 30.04.2023, with respect to the petition schedule mentioned property, against the Respondent, if the sale is so held, subject to the payment of entire suit amounts (Rs.49,37,171) in seven equal installments directly to the 2nd Respondent Bank as under

Installment	Date (on or before)	Amount
1st Installment	26.10.2023	7,05,500
2nd Installment	24.11.2023	7,05,500
3rd Installment	26.12.2023	7,05,500

4th Installment	27.01.2024	7,05,500
5th Installment	27.02.2024	7,05,500
6th Installment	27.03.2024	7,05,500
7th Installment	29.04.2024	7,05,500

However, in the event of failure to pay any one of the installments as ordered above, the Respondents are at liberty to proceed further to confirm the sale, if the sale has been held, without making any reference to this Tribunal and the Ad-Interim stay granted till 30.04.2024, against the Respondents shall stand vacated and the petition in IA No.1557/2022 shall stand closed automatically"

k) It is submitted that the Petitioners failed to comply with the order of this Hon'ble Tribunal as stated above, inasmuch as they failed to pay the 2nd and 3rd installments within time. Thereafter, they filed an application seeking extension of time, pursuant to which they paid the said installments.

l) It is submitted that, though the Defendant No. 3 had paid the entire bid amount to the Defendant No. 2's bank account and had received the sale certificates much prior to the interim order passed by this Hon'ble Tribunal dated 26.09.2023, the Defendant Nos. 1 and 2 failed to take steps:

(a) to forward copies of the sale certificates to the Registering Authorities to be filed in Book I as mandated under law in terms of Section 17(2)(xii) read with Sections 89(4) and 89 of the Registration Act; and

(b) to approach the District Magistrate/Chief Metropolitan Magistrate with a written application requesting taking possession of the secured assets as per Section 14 of the SARFAESI Act, and to register and hand over physical possession of the properties in favour of Defendant No. 3. Such inaction is in clear violation of the decision rendered by the **Hon'ble Apex Court in Civil Appeal Nos. 5542–5543 of 2023 in**

Celir LLP vs. Bafna Motors (Mumbai) Pvt. Ltd. & Ors wherein held that the right of the borrower to redeem the secured asset stands extinguished thereunder on the very date of publication of the notice for public auction under Rule 9(1) of the Rules of 2002.

In accordance with unamended Section 13(8) of the SARFAESI Act, the right of the borrower to redeem the secured asset was available till the sale or transfer of such secured asset. In other words, the borrower's right of redemption did not stand terminated on the date of the action sale of the secured asset itself and remained alive till the transfer was completed in favour of the action purchaser, by registration of the sale certificate and delivery of the possession of the secured asset. However, the amended provisions of Section 13(8) of SARFAESI Act, make it clear that the right of the borrower to redeem the secured asset stands extinguished thereunder on the very date of publication of the notice for public action under Rule 9(1) of the Rules of 2002. In effect, the right of redemption available to the borrower under the present statutory regime is drastically curtailed and would be available only till the date of publication of the notice under Rule 9(1) of the Rule of 2002 and not till the completion of the sale or transfer of the secured asset in favour of the auction purchaser.

m) It is further submitted that the value of the properties is not as high as alleged in the application filed under Section 17(1) of the SARFAESI Act by the Petitioners, since the Defendant No. 1 had fixed e-auction on four occasions, but no bidder came forward due to the higher reserve price. The Defendant No. 3 participated in the e-auction conducted pursuant to the fourth e-auction notice issued by Defendant No. 1. Further, from the very beginning, Defendant Nos. 1 and 2 have suppressed the material fact of issuance of the sale certificate in favour of Defendant No. 3, and have thereby acted in favour of the Petitioners. At every hearing, Defendant Nos. 1 and 2 have represented before this Hon'ble Tribunal that "the Petitioners have not paid further interest and costs," which clearly indicates their collusion with the Petitioners.

Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the above SARFAESI Application with cost and thus render justice.

TYPED SET OF DOCUMENTS FILED BY THE 3rd DEFENDANT

S.No	Date	Particulars
1.	15.07.2023	Sale Intimation Letter of the Property ID No. IOBA202211
2.	15.07.2023	Sale Intimation Letter of the Property ID No. IOBA202212
3.	18.07.2023	e-mail sent by the Respondent No.1 to the Petitioner for payment of Bid amount for the Property ID No - IOBA202211
4.	18.07.2023	e-mail sent by the Respondent No.1 to the Petitioner for payment of Bid amount for the Property ID No - IOBA202212
5.	23.08.2023	Sale Certificate for the for the Property ID No - IOBA202211
6.	23.08.2023	Sale Certificate for the for the Property ID No - IOBA202212
7.	23.08.2023	Letter sent by the Respondent No.1 to the Petitioner

5. On the basis of the above pleadings, now the points which arise for consideration are:-

i) Whether the Applicant is entitled to get the reliefs as prayed for?

ii) Whether the Applicant has been able to prove their case in their favour?

6.0 Having heard the parties and upon perusal of the entire documents available on record, I find that the Applicants availed a Term Loan Facility of **Rs.28,50,000/- (Rupees Twenty-Eight Lakhs Fifty Thousand only)** in the year 2015 by creating an equitable mortgage over the Schedule properties. In the present case, the Applicants are the borrowers who availed the said loan facility from the 2nd Defendant Bank. The Applicants deposited their title deeds with the Defendant Bank in respect of the said loan facility and offered the Schedule properties as

security for the due repayment of the loan amount. Subsequently, a Memorandum of Deposit of Title Deeds was executed on 06.01.2015 and registered as Document No.11 of 2015.

6.1 It is further stated that, initially, the Applicants were regular in repaying the loan amount as agreed with the 2nd Defendant Bank. It is also stated in the pleadings that Applicant No.1 is an agriculturist and, due to natural calamities, failure of monsoon, and the COVID-19 pandemic, his agricultural activities were adversely affected, resulting in his inability to repay the loan dues. Consequently, the 2nd Defendant Bank classified the loan account as **NPA on 29.09.2022** and initiated proceedings under the SARFAESI Act.

7.0 Thereafter, the Defendant Bank issued a Demand Notice dated 01.10.2022 under Section 13(2) of the SARFAESI Act to the borrowers, demanding payment of a sum of **Rs.52,95,017/- (Rupees Fifty Two Lakhs Ninety Five Thousand Seventeen only)** as on 01.10.2022.

7.1 The Applicants have contended that the Demand Notice was neither served upon them nor affixed or published. On the other hand, the Defendant Bank has submitted that the Demand Notice was duly served upon the Applicants and was also affixed and published in two leading newspapers. It is further submitted that the Applicants did not make any representation or raise any objection to the Demand Notice.

7.2 I have also perused the documents filed by the Defendant Bank. The Defendant Bank has produced colour copies of the Demand Notice along with the postal acknowledgment receipts, which are annexed at Pages 1 to 7 of the Bank's typed set of papers.

7.3 Upon perusal of the records, I find that the Defendant Bank has produced the postal acknowledgment (AD) cards as proof of service of the

Demand Notice upon the Applicants. Moreover, the Applicants themselves have produced the Demand Notice dated 01.10.2022 at pages 12 to 14 of their List of Documents. However, the Applicants have contended that the Defendant Bank did not send any communication in response to their representation, as required under Section 13(3-A) of the SARFAESI Act. Therefore, the contention regarding non-service of the Demand Notice is liable to be rejected.

7.4 Further, the Applicants have not produced any material to establish that they had submitted any representation or objection to the Demand Notice under Section 13(3A) of the SARFAESI Act after receipt of the notice issued under Section 13(2) of the Act.

8.0 Thereafter, the Defendant Bank issued a Possession Notice dated 19.12.2022 under Section 13(4) of the SARFAESI Act to the Applicants, demanding a sum of **Rs.54,58,865/- (Rupees Fifty-Four Lakhs Fifty-Eight Thousand Eight Hundred and Sixty-Five only)** as on 19.12.2022.

8.1 The Applicants have contended that the Possession Notice was neither served upon them nor affixed or published. On the other hand, the Defendant Bank has submitted that the Possession Notice was duly served upon the Applicants and was also affixed and published in two leading newspapers.

8.2 In support thereof, the Defendant Bank has produced colour copies of the Possession Notice, postal acknowledgment (AD) cards, photographs evidencing the affixture of the Possession Notice on the Schedule-mentioned property, and original copies of the newspaper publications in one English daily and one Tamil daily, which are annexed at Pages 08 to 19 of the Defendant Bank's typed set of papers.

8.3 Upon perusal of the records, I find that the Defendant Bank has produced postal acknowledgment (AD) cards as proof of service of the Possession Notice upon the Applicants. The Possession Notice was published in **"Dinamani"** (Tamil Daily) and **"The New Indian Express"** (English Daily) on 22.12.2022. The Defendant Bank has also produced photographs evidencing the affixture of the Possession Notice on a conspicuous part of the secured asset. Moreover, the Applicants, in their List of Documents at Pages 15 and 16, have themselves produced the Possession Notice dated 19.12.2022. Therefore, the contention of the Applicants regarding non-service of the Possession Notice is liable to be rejected.

8.4 In view of the above, this Tribunal is satisfied that the Defendant Bank has complied with the mandatory requirements of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, while issuing, serving, affixing, and publishing the Possession Notice.

9.0 Thereafter, the Defendant Bank issued three Sale Notices dated 05.01.2023, 21.02.2023, and 18.04.2023 to the Applicants. However, the proposed sales could not be conducted due to the absence of bidders, and consequently, the auctions did not materialize.

9.1 Subsequently, the Defendant Bank issued the impugned Sale Notice dated 23.06.2023 for the sale of the secured asset, demanding a sum of **Rs.54,39,000/- (Rupees Fifty-Four Lakhs Thirty-Nine Thousand only)** as on 23.06.2023. The auction sale was conducted on 15.07.2023, wherein the secured asset was sold in favour of the 3rd Defendant.

9.2 The Applicants have contended that the Sale Notice was neither affixed on the secured asset nor published in two leading newspapers. On the other hand, the Defendant Bank has submitted that the Sale

Notice was duly affixed on the secured asset and published in two leading newspapers.

9.3 In support thereof, the Defendant Bank has produced a colour copy of the Sale Notice, photographs evidencing the affixture of the Sale Notice on the secured asset, and the original copies of the newspaper publications, which are annexed at Pages 20 to 32 of the Defendant Bank's typed set of papers.

9.4 Upon perusal of the records, I find that the Sale Notice was published in **"Dinamani"** (Tamil Daily) and **"The New Indian Express"** (English Daily) on 29.06.2023. The Defendant Bank has also produced photographs evidencing the affixture of the Sale Notice on a conspicuous part of the secured asset. Therefore, the contention of the Applicants regarding non-affixture and non-publication of the Sale Notice is liable to be rejected.

9.5 In view of the above, I find that the Defendant Bank has complied with the mandatory requirements prescribed under the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, with regard to the issuance, affixture, and publication of the Sale Notice. Accordingly, I do not find any procedural irregularity or illegality in the said SARFAESI measure.

10.0 Thereafter, the Defendant Bank issued a Sale Certificate dated 23.08.2023 in favour of the Third Defendant pursuant to the Sale Notice dated 23.06.2023 with strictly complying with the mandatory provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002 and has produced a xerox copy of the Sale Certificate dated 23.08.2023.

11.0 The Applicants further contended that the Defendant Bank had not registered the mortgaged property with the Central Registry of

Securitisation Asset Reconstruction and Security Interest of India (CERSAI) under Section 20 of the SARFAESI Act. On the other hand, the Defendant Bank contended that the mortgaged property had been duly registered with CERSAI and, in support thereof, produced the relevant documents, which are annexed at pages 59 to 62 of the Defendant Bank's Typed set of Documents. Thus, the Defendant Bank has rebutted the said contention of the Applicant.

12.0 Further, the Applicants contended that they had approached the Defendant Bank seeking a One-Time Settlement (OTS) and that the Bank had not, so far, considered their request. However, I find that the Applicants have not produced any documentary evidence to substantiate the said contention. Further, the Applicants have not placed any material before this Tribunal to substantiate their contention that the rate of interest was excessive or contrary to the RBI guidelines. The Applicants have also not produced any document to establish that they had made any representation to the Defendant Bank seeking a copy of the Statement of Account.

13.0 The Applicant further contended that the Defendant Bank had not properly assessed the value of the property and had undervalued the same. The Applicant further contended that the Defendant Bank had failed to disclose the superstructures constructed on Old Natham Patta No. 1568, Old Natham Survey No. 1632/1, New Natham Survey No. 1632/22, bearing Door No. 402, and had proposed the house site for sale without valuing the building constructed thereon. On the other hand, the Defendant Bank contended that it had obtained a valuation report from an approved valuer and that the reserve price was fixed based on the said valuation report. The Applicant has not produced any valuation report before this Tribunal to substantiate the allegation of undervaluation.

13.1 Upon perusal of the records, I find that the valuation report produced by the Defendant Bank at page 54 of its Index to the Typed Set of Papers shows that the value of the building was taken into consideration by the valuer. Though the Applicant has not produced any valuation report in support of the allegation of undervaluation, the valuation report produced by the Defendant Bank indicates that the building was taken into consideration while assessing the value of the property. Hence, this contention is decided in favour of the Defendant Bank.

14.0 I also find that, during the pendency of the case, this Tribunal, by order dated 26.09.2023, granted a conditional stay restraining the Defendant Bank from confirming the sale, subject to the Applicants depositing a sum of **Rs.49,37,171/- (Rupees Forty-Nine Lakhs Thirty-Seven Thousand One Hundred and One only)** in seven instalments. The Applicants complied with the said conditional order, thereby demonstrating their bona fides. However, mere compliance with the conditional order does not, by itself, entitle the Applicants to the reliefs sought in the present Securitisation Application.

15.0 It is pertinent to note that the secured asset was sold in favour of the Third Defendant pursuant to the auction conducted by the Defendant Bank. Since this Tribunal has not found any illegality in the statutory measures challenged by the Applicants, namely, the issuance and service of the Demand Notice, Possession Notice, and Sale Notice, no ground is made out to interfere with the consequential sale in favour of the Third Defendant.

Under the above facts and circumstances of the case, this Tribunal is of the considered view that Applicants have failed to prove their case and on the other hand, I find that the Defendants Bank have followed the

procedures strictly for recovery of loan amount under SARFAESI Act as such I do not find any merit in the above SARFAESI Application.

In the result, **S.A. No. 350 of 2023** stand dismissed. Consequently, all pending I.As., if any, also stand disposed of. No order as to costs.

Dictated to LDC (KK), taken down, transcribed, typed by him, corrected and pronounced by me in the Open Court in this the 21st August 2026.

Sd/-
(SEEMA SINHA)
PRESIDING OFFICER

Uploaded on 31.08.2026