IN THE DEBTS RECOVERY TRIBUNAL AT COIMBATORE

DATED THIS 13th DAY OF JULY 2026

PRESENT: SRI N. SOMASUNDAAR, B.A., B.L.,
PRESIDING OFFICER

S.A. No.370 of 2023
AND
S.A.No.620 of 2024

S.A.No.370 of 2023

Between

1. M/s.Sree Selvaganapathy Agro Industries
Represented by Managing Partner Nallasamy K
No.107, Saminathapuram Modakurichi,
Muthur Main Road, Erode – 638 004.

2. M/s.Sree Selvaganapathy Coconut Processing
Represented by Proprietor Nallasamy K
No.107, Saminathapuram Modakurichi,
Muthur Main Road,
Erode – 638 004.

3. Mr.Nallasamy K
Proprietor of Sree Selvaganapathy Coconut Processing
Managing Partner of Sree Selvaganapathy Agro Industries,
S/o. Kuppuswamy S,
No.47, Pappathikadu, 2nd Street,
Veerappan Chatram,
Erode – 638 004.

4. Mr.Sugantha Nallasamy C
Managing Partner of Sree Selvaganapathy Agro Industries,
W/o. Nallasamy C
No.47, Pappathikadu, 2nd Street,
Veerappan Chatram,
Erode – 638 004.

5. Mr.Selvadurai K
S/o. Kuppuswamy S
No.51, Papathikadu 2nd Street,
Veerappan Chatram,
Erode – 638 004. …… Applicants

And

1. M/s. PNB Housing Finance Ltd.
Represented by its Authorised Officer
Branch Office at:
No.1112, Raja Plaza, 2nd Floor,
Avinashi Road (Near Lakshmi Mills),
Coimbatore – 641 037. …… Respondent

2. Ld. Chief Judicial Magistrate
Sampath Nagar,
Erode Court Campus,
Erode – 638 011.

[This respondent is exonerated vide this final order]

S.A.No.620/2024

Between

1. Sree Selvaganapathy Agro Industries
Represented by Managing Partner Nallasamy K
No.107, Saminathapuram Modakurichi,
Muthur Main Road,
Erode – 638 004.

2. Sree Selvaganapathy Coconut Processing
Represented by Proprietor Nallasamy K
No.107, Saminathapuram Modakurichi,
Muthur Main Road,
Erode – 638 004.

3. Nallasamy K
Proprietor of Sree Selvaganapathy Coconut Processing
Managing Partner of Sree Selvaganapathy Agro Industries,
S/o. Kuppuswamy S,
No.47, Pappathikadu, 2nd Street,
Veerappan Chatram,
Erode – 638 004.

4. Sugantha Nallasamy C
Managing Partner of Sree Selvaganapathy Agro Industries,
W/o. Nallasmay C
No.47, Pappathikadu, 2nd Street,
Veerappan Chatram,
Erode – 638 004.

5. Selvadurai K
S/o. Kuppuswamy S
No.51, Papathikadu 2nd Street,
Veerappan Chatram,
Erode – 638 004. …… Applicants

And

M/s. PNB Housing Finance Ltd.
Represented by its Authorised Officer
Branch Office at:
No.1112, Raja Plaza, 2nd Floor,
Avinashi Road (Near Lakshmi Mills),
Coimbatore – 641 037. .... Respondent

These Securitisation Applications having been heard finally on 13.7.2026 in the presence of Ld. Counsel Ms. Sasmitha representing Advocate Mr. M.V. Shankar, appearing through VC for the Applicants and Ms. C.D. Promodhini, Ld. Counsel appearing for the Respondent Company and upon consideration and appreciation of the pleadings, evidence and written submissions, the set of facts being one and the same and the parties hereto having filed common written arguments in both the Securitsation Applications, the Tribunal proceeds to pass the following:

C O M M O N   O R D E R

The SARFAESI Application (for short – 'SA') Nos.370/2023 and 620/2024 are filed by Applicants seeking respectively to :

(i) set aside the order of the Ld. Chief Judicial Magistrate, Erode, dated 13.04.2023 passed in Crl.M.P.No.4801 of 2023 and the consequential measures initiated by the Respondent under S.14 of the SARFAESI Act; and
(ii) to quash the Possession Notice dated 18.01.2023 issued under the SARFAESI Act being vitiated by material irregularity and to award cost.

2. ***The factual matrix as averred by the Applicants in the SA are precisely these :***

2.1 That the 1st Applicant is a partnership concern engaged in the business of manufacturing and trading desiccated coconut powder; that Applicants 3 & 4 are the Managing Partners; that the 2nd Applicant is a proprietorship concern managed by the 3rd Applicant and that the 5th Applicant is the guarantor for the credit facilities availed by the Applicants 1 & 2 from M/s. PNB Housing Finance Ltd. Coimbatore (herein after referred to as - Respondent Company – for short).

2.2. That the Respondent company is a National Housing Company as defined under S.29A of the National Housing Company Act engaged in the business of providing credit/loan facilities and accepting term deposits from public.

2.3. That the Applicants for enhancement of their business approached the Respondent Company in the year 2017 and availed two loan facilities, one to the tune of Rs.6,25,03,717/- and another to the tune of Rs.3,90,00,000/-; that the Applicants 3 & 4 executed a Memorandum of Deposit of Title Deeds for their property offered as security in favour of the Respondent Company registered as Doc. No.2980 of 2017 on the file of Joint-I, SRO, Erode; that the Managing Partner Mr.Nallasamy (3rd Applicant) having met with a serious accident during January 2019 and the Covid-19 pandemic and lockdowns led to downfall of Applicants trade and manufacturing business; that inspite of setbacks and financial losses the Applicants regularly paid EMI of Rs.10,96,749/- for both the loans from July 2017 to January, 2021; that thereafter after a moratorium of six months from January 2021 to July 2021, the Applicants paid the revised EMI of Rs.13,30,367/- from August 2021 to September, 2022; that the loan accounts were classified as NPA on 13.08.2019; that the Respondent Company initially issued Demand Notice dated 23.08.2019 followed by another Demand Notice dated 20.01.2020 which was on a later date withdrawn as erroneous and issued a fresh S.13 (2) Demand Notice dated 11.10.2022 claiming a sum of Rs.11,59,94,978/- mentioning the date of 'NPA' as 09.10.2022; and that the 1st Respondent company issued a fresh Possession Notice dated

18.01.2023 *(subsequent to withdrawal of earlier Possession Notice dated 17.12.2022 as erroneous)*, which is being challenged before the Tribunal in SA No.620 of 2024.

2.4. That in the meanwhile the respondent company initiated proceedings under S.14 of the SARFAESI Act before the Ld. CJM, Erode in Crl.M.P.No.4801 of 2023 and obtained an order dated 13.4.2023 for taking physical possession of the SA schedule properties by the Advocate Commissioner appointed by the Ld. CJM; that the Item No.1 SA schedule property belonging to Applicants No.3 & 4 is a residential property where the Applicants 3 & 4 are residing with their family; that the respondent company is attempting to dispossess the Applicants by taking physical possession of the schedule properties by virtue of order passed by the Ld. CJM, Erode on 13.04.2023 in Crl.M.P.No.4801 of 2023 in an unreasonable and arbitrary manner and not in conformity with the mandatory procedure prescribed under the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002 and hence, liable to be side aside. Hence, the SA 370 of 2023.

WRITTTEN NOTES OF SUBMISSION FILED ON BEHALF OF THE APPLICANTS READETH THUS:

2.5 That the Applicants have filed two Securitisation Applications, namely S.A. No. 370 of 2023 and S.A. No. 620 of 2024 before this Tribunal, respectively for a relief in **S.A. No. 370 of 2023** seeking to set aside the order passed by the Hon'ble Chief Judicial Magistrate, Erode in Criminal M.P. No.4801 of 2023 and the consequential measures initiated under Section 14 of the SARFAESI Act; and in **S.A. No. 620 of 2024** seeking to set aside and quash the Possession Notice dated 18.01.2023 issued under the SARFAESI Act it being erroneous, vitiated by material irregularities and in contravention of the procedures contemplated under the Act.

2.6 That the 3rd and 4th Applicants being the absolute owners of the SA Schedule Properties (Items 1 and 2), created an equitable mortgage in favour of the Respondent by deposit of title deeds for certain financial assistance availed from the Respondent in the year 2017.

2.7 That the Respondent issued a Demand Notice dated 23.08.2019 under Section 13(2) of the SARFAESI Act alleging that the accounts were classified as NPA on 13.08.2019 and subsequently, issued another Demand Notice dated 20.01.2020 withdrawing the earlier notice, based on the same NPA classification dated 13.08.2019 such a classification being incorrect and unjustified as the same were not in accordance to the prudential norms of the RBI.

2.8 That on 11.10.2022, yet another Demand Notice under Section 13(2), claiming the accounts were declared NPA on 09.10.2022 was issued explicitly withdrawing the previous notice dated 20.01.2020 issued under section 13(2) of the SARFAESI Act with the immediate effect as the same was erroneously and inadvertently sent.

2.9 That the Applicants duly objected to the said Demand Notice and also issued a detailed letter dated 30.01.2023 setting out all material facts and even proposing to sell one of the properties to clear the dues which was not replied by the Respondent Company as per Section 13 (3-A) of the SARFAESI Act that mandated to consider the borrower's objection and communicate its decision with reasons within 15 days which is in violation of the statutory requirement of 13(3-A) of the Act.

2.10 That the Respondent issued a Possession Notice dated 17.12.2022 under Section 13(4), which was later withdrawn by the Respondent, citing that it was erroneously issued and without due application of mind, followed by issuance of another *unsigned* Possession Notice dated 18.01.2023 under Section 13(4) of the Act for a sum of

Rs.11,59,94,978/- (Rupees Eleven Crore Fifty Nine Lakh Ninety Four Thousand Nine Hundred and Seventy Eight Only) as on 11.10.2022 which is not in accordance with Appendix IV as stipulated under the Act.

2.11 That the possession notice alleged to have been affixed on 18.01.2023 does not comply with sub-rule (1) and the timing and content of the notice raise serious concerns about the Respondent's compliance with procedural requirements. The publication of newspaper under <u>Rule 8(2) of the Security Interest (Enforcement) Rules, 2002, does not properly describe the schedule of the mortgaged properties as mandated under Rule 8(1) requiring to publish the possession notice in accordance with Appendix IV.</u>

2.12 That an ex-parte order was passed under Section 14 of the SARFAESI Act in Crl.M.P. No. 4801 of 2023 before the Hon'ble Chief Judicial Magistrate, Erode permitting to take physical possession of the property, the Learned Magistrate having failed to appreciate whether the respondent bank had complied with Sec.14(1) (b) (vii) of the Act, without appreciating as to the non-compliance of sub-rule (1) of Rule 8 on the affixture of possession notice and without serving notice of the said petition or the resulting order.

2.13 That the order dated 13.04.2023 suffers from factual and legal discrepancies regarding possession of the secured assets as the same was rendered based on erroneous possession notices, which are not in accordance with the Rules, and deserves to be reconsidered in light of the aforementioned facts. Hence, the order passed by the Hon'ble Chief Judicial Magistrate, Erode in Criminal M.P. No. 4801 of 2023 and all consequential measures initiated by the Respondent under Section 14 of the SARFAESI Act and the Possession Notice dated 18.01.2023 issued under Section 13(4) of the SARFAESI Act being vitiated by material irregularity and in violation of mandatory procedural requirements are liable to be set aside.

3. The Respondent Company rebutting the contentions raised in the SA Nos. 620 of 2024 & 370 of 2023 filed respective Reply Statements, Common Synopsis and Written arguments, the gist and kernel of which are as hereunder:-

3.1. That the Applicants No.1 to 4 have approached the Respondent for a sum of Rs.3,90,00,000/- under Non-Housing Loan and a sum of Rs.6,10,00,000/- under Loan Against Property – Residential and in addition to it a further sum of Rs.15,03,717/- was sought for Insurance Premium; that the Sanction Letters and execution of Loan Agreements have not been disputed by the Applicants; that the Applicants 3 & 4 being the absolute owners have mortgaged Item Nos.1 and 2 of the Schedule Properties by way of deposit of title deeds; that since the Applicants failed to repay the amounts outstanding the Loan Account of the Applicants came to be classified as NPA on 13.08.2019; that the Demand Notice u/s.13(2) of the SARFAESI Act issued on 23.08.2019 was withdrawn and a fresh Demand Notice dated 20.01.2020 under Sec.13(2) of the SARFAESI Act came to be issued; that by virtue of Restructuring of the Loan Accounts at the request of the Applicants and since during Covid-19 Pandemic the Moratorium for Six Months came to be extended from January 2021 to July 2021, the loan accounts were out of NPA and the earlier Demand Notice issued on 20.01.2020 was withdrawn; and that when the Applicants again defaulted, a fresh Demand Notice issued on 11.10.2022 upon classification of the loan accounts as NPA on 09.10.2022.

3.2. That under the provisions of the SARFAESI Act, any number of time Demand Notice can be issued and if any earlier demand notices are not acted upon, the same stands withdrawn automatically and hence, there is no need to mention in the fresh notice about withdrawal of the earlier demand notice; that the Applicants having failed to pay the demanded amount within sixty days from the date of receipt of the demand notice, a Possession Notice as required u/s.13(4) of the said Act came to be issued on 17.12.2022; that since due to oversight the said Possession Notice dated 17.12.2022 came to be issued before the expiry of sixty days from the date of receipt of the demand notice by the Applicants, it became infructuous and inoperational and hence came to withdrawn; that the Respondent issued a fresh Possession Notice dated 18.01.2023 by serving the same on 21.01.2023 and publishing the same in two daily newspapers one in "Business Standard" and the other in "Dinakaran" on 23.01.2023 which is questioned in S.A.No.620/2024; that the Applicants have sent their reply dated 30.01.2023 after 60 days from the date of Demand Notice and hence is not falling under section 13 (2)(A) *(may be a mistake for section 13(3A)* of the SARFAESI Act; and that the said reply has been sent by the Applicant for One Time Settlement.

3.3. That the description of Item No.1 ***(may be a mistake for Item No.2)*** of the Schedule Property in the notices and paper publications has been described as No.64, T.C.No.118, Ward No.8, Block-22, Thiru. Ve.Ka. Street, Muniyappan Colony, Erode – 638004; that the fact that the Item No.1 and 2 have been mortgaged by the Applicants has not been denied by them; and that with regard to the contention of the Applicants that "No.64 and Muniyappan Colony" have been added by the Respondent, a memo is filed by the Respondent on 05.06.2025 along with four documents, the details of which are as below.

i) *The Judgment passed in O.S.No.252/2003, which discloses the fact that T.C.No.118 has been partitioned and {at handwritten Page No.16) B Portion has been allotted to the 3rd Applicant and as the same is portion of larger extent of land subsequently, the No.64 has been assigned to the* *said property and Muniyappan Colony has been named thereafter. Therefore, in all the documents executed by the Applicant, the description of Item No.1* ***(may be a mistake for Item No.2)*** *has been so mentioned, which has been reproduced in the paper publication.*

ii) Declaration and Undertaking: executed by the Applicants clearly describes the description of the property, which also contain No.64 and Muniyappan Colony in addition to other information.

iii) Sanction Letter: In the Sanction Letter, the address of the Item No.1 of the Schedule Property ***(may be a mistake for Item No.2)*** *has been shown as Door No.64. T.C.No.118, Ward No.8, Block 22, Thiru.Ve.Ka. Street, Muniyappan Colony, Erode, Tamilnadu – 638004.*

iv) More importantly, the Partnership Firm declaration executed by the Applicants specifically describes Item No.1 ***(may be a mistake for Item No.2)*** *at Paragraph No.3. Therefore, there is no doubt about description of Item No.1* ***(may be a mistake for Item No.2)*** *mortgaged with the Respondent.*

3.4. That there is no dispute with regard to Item No.2 of the Schedule Property and creation of mortgage with the Respondent by the Applicants; that the Respondent company under Memo dated 26.05.2025 had produced CERSAI reports which also clearly describes the Item No.1 and 2 of the Schedule Property mortgaged with the Applicants; that due to the moratorium granted to the Applicants the Demand Notice dated 20.10.2020 with NPA dated 23.08.2019 became infructuous; that the Applicants having failed to adhere to terms and conditions of restructured EMIs, the loan accounts of the Applicants came to be declared as NPA on 09.10.2022 and a fresh Demand Notice was issued on 11.10.2022; that the applicants apart from agri-based industries are having other businesses as well and that the schedule properties are residential and Mandapam properties; that the Mandapam properties though are having profitable business gaining high income, the applicants have willfully allowed the loan account to be categorized as NPA; and that the Applicants are liable to pay a sum of Rs.11,59,94,978/- as per Demand Notice dated 11.10.2022 and as on

06.06.2023 the applicants are liable to pay the outstanding dues of Rs.12,71,96,780.55 as per the statement of accounts.

3.5. That the applicants apart from deposit of a sum of Rs.2,87,50,000/- in compliance of the order and directions of this Tribunal in I.A. No.1957 of 2023 in S.A. No.370 of 2023, have not made any further payments for settlement of the dues to the respondent company; that no discrepancies are committed by the Ld. Chief Judicial Magistrate while passing the Order dated 13.04.2023 with respect to the possession of the Secured Asset; and that the total sum of Rs.13.35 crores being the dues as on 02.07.2025, the SA be rejected in the interest of justice and equity.

3.6 That in both the Securitisation Applications, the set of facts being one and the same, the Respondent has submitted common synopsis/written arguments. The 3rd and 4th Applicants being the absolute owners have mortgaged Item Nos.1 and 2 of the Schedule Properties by way of deposit of title deeds for the sum of Rs.3,90,00,000/- under Non-Housing Loan and a sum of Rs.6,10,00,000/- under Loan Against Property – Residential.

3.7 That the Sanction Letters and execution of Loan Agreements have not been disputed by the Applicants. The Applicants having failed to repay the amounts outstanding the Loan Account of the Applicants came to be classified as NPA on 13.08.2019 and the Demand Notice under section 13(2) of the SARFAESI Act came to be issued on 23.08.2019 which later was withdrawn and a fresh Demand Notice dated 20.01.2020 came to be issued under Sec.13(2) of the SARFAESI Act. Due to Restructuring of the Loan Accounts, earlier issued Demand Notice dated 20/01/2020 came to be withdrawn automatically and pursuant to the classification of NPA on 09.10.2022, a fresh notice U/Sec.13(2) of the said Act came to be issued on 11.10.2022.

3.8 That under the provisions of the SARFAESI Act, any number of time Demand Notice can be issued and if any earlier demand notices are not acted upon, the same stands withdrawn automatically and hence, there is no need to mention in the fresh notice about withdrawal of the earlier demand notice.

3.9 The Applicants having failed to pay the demanded amount within sixty days from the date of receipt of the demand notice, a Possession Notice as required under section 13(4) of the said Act came to be issued on 17.12.2022 and as the said Possession Notice dated 17.12.2022 came to be issued before the expiry of sixty days from the date of receipt of the demand notice by the Applicants, the Respondent hence issued a fresh Possession Notice dated 18.01.2023 by serving the same on 21.01.2023 and publishing the same in two daily newspapers one in "Business Standard" and the other in "Dinakaran" on 23.01.2023. Presently, the said Possession Notice is in question in S.A.No.620/2024.

3.10 That on receipt of the Demand Notice dated 11.10.2022, the Applicants have issued the reply dated 30.01.2023 to which the Respondent failed to reply. There are three reasons for which the so-called reply dated 30.01.2023 *(wrongly typed in the reply statement of the Respondent as 30.01.2022)* could not be considered:

(i) The said reply dated 30.01.2023 has been sent after 60 days from the date of Demand Notice, hence the same is not falling under section 13(2)(A) of the SARFAESI Act;

ii) **The so-called Reply has never been sent to the Respondent**; and

iii) The reply was for One Time Settlement, which need not necessarily be considered by the Respondent as against their interest, if the same has been served upon the Respondent.

3.11 That the description of Item No.1 ***(may be a mistake for Item No.2)*** of the Schedule Property given in the Demand Notice, Possession Notice and Paper Publications has been described as No.64, T.C.No.118, Ward No.8, Block 22, Thiru.Ve.Ka Street, Muniyappan Colony, Erode – 638004 and the mortgage of Item No.1 and 2 properties have not been denied by the Applicant.

3.12 That under Memo dated 26.05.2025, the Respondent had produced CERSAI reports, which also clearly describes the Item No.1 and 2 of the Schedule Property mortgaged with the Applicants.

3.13 That no discrepancies are committed by the Ld. Magistrate, while passing the Order dated 13.04.2023 with respect to the possession of the Secured Asset for the admitted due of total sum of Rs.13.35 Crores as on 02.07.2025. Hence, the Tribunal may reject both the Applications in S.A No.370/2023 and S.A No.620/2024, in the interest of justice and equity.

4.1 On a conspectus of the pleadings, written submissions and documents relied by either side, it is discernible without any pale of doubt that the Applicants admit to have availed certain 'financial assistance' from the Respondent vide sanction letters dated 28.04.2017 in the nature of two loan facilities namely Non-Housing Loan of Rs.3.90 crores and Loan Against Property of Rs.6,25,03,717/- (which is inclusive of insurance premium of Rs.15,03,317/-) ; the creation of mortgage over SA schedule properties (item Nos.1 & 2) by the 3rd Applicant vide Mortgage Deed dated 27.6.2017 (Doc. No.2980/2017); the default committed by the Applicants in repayment of loans; the service of the Respondent's three Demand Notices dated 23.08.2019, 20.01.2020 & 11.10.2022; and the Applicants' receipt of two Possession Notices dated 17.12.2022 & 18.01.2023.

4.2. The Applicants would contend to have caused a representation/ objection vide letter dated 30.01.2023 in exercise of their valuable right of representation u/s.13 (3-A), the receipt of which is denied and disputed by Respondent Company in view of non-production of postal registration receipts/postal tracking reports as the case may be. The Ld. Counsel for the Applicants during his course of arguments would contend that the Applicants have mislaid it and the Respondent's admission in their pleadings and argument notes by itself are best evidences for their receipt of such notice and their non-consideration of the Applicants' representation/ reply issued to them. That apart the Applicants would assail the issuance of 2nd impugned Possession Notice dated 18.01.2023 without withdrawing the earlier 1st Possession Notice dated 17.12.2022 as an illegality vitiating the respondent's assuming of constructive possession of secured asset.

4.3 That the symbolic possession notice dated 18.01.2023 is impugned in SA 620/2024 on various other illegalities/infirmities alleged by Applicants namely the differences and mis-description in the secured asset set out in the ones served on them and the ones published in newspapers; affixture of Possession Notice not complying with sub-rule (1); and causing of such notice without even the signature of the Authorised Officer which is in negation of the mandatory legal requirement of sub-rule (1) & (2) of Rule 8 and the Appendix-IV statutory format prescribed by way of subordinate legislation. The classification of loan account as NPA was not in accordance with RBI directives as the Applicants made payments regularly and have not committed any willful default, would be yet another contention canvassed by the Applicants.

4.4. Palpably, SA No.370/2023 is filed challenging the order dated 13.04.2023 of Ld. CJM, Erode in Crl.M.P.No.4801/2023 on predominantly three premises namely:

(i) Failure of the Ld. CJM to appreciate the respondent's non-compliance of section 14 (1) (vii) of SARFAESI Act;

(ii) Non discussion in the impugned order as to affixation of Possession Notice under sub-rule (1) of Rule 8; and

(iii) Non service of either the notice of said petition or the resulting order on the Applicants.

4.5. Both the SAs having been heard together and the parties having elected to file a common written arguments consenting for passing of a common final order, the Tribunal proceeds to test the legality or otherwise of the measures and actions impugned in both the SAs by way of this common order. *Sans* other contentions raised by way of pleadings, the Tribunal is required to delve at and decide only on such contentions which the parties before it would pursue and persist for consideration. The Tribunal ineluctably holds so reminiscing the judgment of Hon'ble High Court of *Bombay* in the case of ***"Fine Platinum (India) Limited & Ors. vs. IndusInd Bank Limited and Ors."*** reported in MANU/MH/1121/2016, wherein it is observed thus:

> *"35. .... It is now well settled that several points may be taken in the pleadings but if they are not urged before the court, the court is not required to adjudicate on the same."*

5. POINTS FOR CONSIDERATION:

(1) Whether the loan accounts of Applicants came to be classified as NPA as per RBI norms?

(2) Whether section 13(4) symbolic possession notice dated 18.01.2023 is lawful, valid and proper ?

(3) Whether section 13(4) measures and section 14 proceedings of Respondent Company is rendered illegal and invalid for non-consideration of representation/objection of the Applicants' reply dated 30.01.2023 ?

(4) Whether the order dated 13.04.2023 made by Ld. CJM, Erode in Crl.M.P.No.4801/2023 is in negation of the legal requirements of section 14 of SARFAESI Act ?

6. For arriving at a just and proper decision with regard to the points in issue, the relevant provisions of the SARFAESI Act and Rules are excerpted hereunder:

SARFAESI Act :

13. - Enforcement of security interest.—

(1) ………………………………………….

(2) Where any borrower, who is under a liability to a secured creditor under a security agreement, makes any default in repayment of secured debt or any instalment thereof, and his account in respect of such debt is classified by the secured creditor as non-performing asset, then, the secured creditor may require the borrower by notice in writing to discharge in full his liabilities to the secured creditor within sixty days from the date of notice failing which the secured creditor shall be entitled to exercise all or any of the rights under sub-section (4).

[Provided that— (i) the requirement of classification of secured debt as non-performing asset under this sub-section shall not apply to a borrower who has raised funds through issue of debt securities; and (ii) in the event of default, the debenture trustee shall be entitled to enforce security interest in the same manner as provided under this section with such modifications as may be necessary and in accordance with the terms and conditions of security documents executed in favour of the debenture trustee.]

[(3A) If, on receipt of the notice under sub-section (2), the borrower makes any representation or raises any objection, the secured creditor shall consider such representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate 3[within fifteen days] of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower:

Provided that the reasons so communicated or the likely action of the secured creditor at the stage of communication of reasons shall not confer any right upon the borrower to prefer an application to the Debts Recovery Tribunal under section 17 or the Court of District Judge under section 17A.]"

(4) In case the borrower fails to discharge his liability in full within the period specified in sub-section (2), the secured creditor may take recourse to one or more of the following measures to recover his secured debt, namely:—

(a) 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;
(b) take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset:

Provided that the right to transfer by way of lease, assignment or sale shall be exercised only where the substantial part of the business of the borrower is held as security for the debt: Provided further that where the management of whole of the business or part of the business is severable, the secured creditor shall take over the management of such business of the borrower which is relatable to the security for the debt;]

(c) appoint any person (hereafter referred to as the manager), to manage the secured assets the possession of which has been taken over by the secured creditor;

(d) require at any time by notice in writing, any person who has acquired any of the secured assets from the borrower and from whom any money is due or may become due to the borrower, to pay the secured creditor, so much of the money as is sufficient to pay the secured debt.

14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset.—

(1) Where the possession of any secured assets is required to be taken by the secured creditor or if any of the secured assets is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured assets, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may be, the District Magistrate shall, on such request being made to him—

(a) take possession of such asset and documents relating thereto; and

(b) forward such asset and documents to the secured creditor: 1 [Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that—

(i) the aggregate amount of financial assistance granted and the total claim of the Bank as on the date of filing the application;

(ii) the borrower has created security interest over various properties and that the Bank or Financial Institution is holding a valid and subsisting security interest over such properties and the claim of the Bank or Financial Institution is within the limitation period;

(iii) the borrower has created security interest over various properties giving the details of properties referred to in sub-clause (ii)above;

(iv) the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;

(v) consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a non-performing asset;

(vi) affirming that the period of sixty days notice as required by the provisions of sub-section (2) of section 13, demanding payment of the defaulted financial assistance has been served on the borrower; 1. Ins. by Act 1 of 2013, s. 6 (w.e.f. 15-1-2013).

(vii) the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for non-acceptance of such objection or representation had been communicated to the borrower;

(viii) the borrower has not made any repayment of the financial assistance in spite of the above notice and the Authorised Officer is, therefore, entitled to take possession of the secured assets under the provisions of sub-section (4) of section 13 read with section 14 of the principal Act;

(ix) that the provisions of this Act and the rules made thereunder had been complied with: Provided further that on receipt of the affidavit from the Authorised Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets1[within a period of thirty days from the date of application]:

Provided also that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such further period but not exceeding in aggregate sixty days.

Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act.

(1A) The District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him,—

(i) to take possession of such assets and documents relating thereto; and

(ii) to forward such assets and documents to the secured creditor.]

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force, as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate any officer authorised by the Chief Metropolitan Magistrate or District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.

THE SECURITY INTEREST (ENFORCEMENT) RULES, 2002

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, as soon as possible but in any case not later than seven days from the date of taking possession, in two leading newspaper] one in vernacular language having sufficient circulation in that locality, by the authorised officer.

(2A) All notices under these rules may also be served upon the borrower through electronic mode of service, in addition to the modes prescribed under sub-rule (1) and sub-rule (2) of rule 8.

DISCUSSION, DELIBERATION AND DECISION

7. POINT No.1 FOR CONSIDERATION: *Whether the loan accounts of Applicants came to be classified as NPA as per RBI norms?*

7.1 Axiomatically, the Applicants 1 to 4 admit to have availed 'financial assistance' in the form of Non-Housing Loan of Rs.3.90 crores and Loan Against Property of Rs.6,25,03,717/- in pursuance of sanction letter dated 28.04.2017 as also the creation of valid security interest over SA schedule item Nos.1 & 2 properties by the 3rd Applicant. The loan accounts though originally came to be classified as NPA on 13.08.2019 as set out in the earlier two Demand Notices dated 23.08.2019 and 20.01.2020, the Applicants have no case or contention of causing any objection or representation to classification of loan in terms of section 13(3-A). Upon receipt of the impugned Demand Notice dated 11.10.2022 which is supposedly the one caused by Respondent Company in terms of section 13 (2) after allowing the Moratorium of 6 months between January 2021 and July 2021 and the loan accounts slipping into the status of NPA on 09.10.2022, the Applicants would contend to have submitted a representation/objection dated 30.01.2023 whereunder there is not any reference to the Demand Notice dated 11.10.2022 and the Applicants having any objection or representation as regards the claim made thereunder. The said letter is a sort of an OTS letter for 50% of the principal outstanding by treating it as a special case without denying or disputing the respondent's classification of loan account as NPA. The Applicants could not point out anything with reference to the RBI Master Circular setting out the norms for classification of loan account as NPA as per which the Respondent's declaration of the loan accounts as NPA could be flawed or found fault with. While the Ld. Counsel for Respondent Company would take this Tribunal through statement of accounts filed in their Additional typed-set of papers vide Diary No.1847/2025 dated 04.03.2025 and Memo dated 21.06.2026 and point out non-payment of EMIs in the months of July, Aug & Sep of 2022 reckoning from September 2021 in both the loan accounts, there is not any evidence on the side of applicants to demonstrate the contrary. It is the case and the contention of the respondent company that default in payment of EMIs from September 2021 required adjustment of subsequent EMIs paid in arrears in three consequent EMIs of July, August and September 2022 culminating in classification of both loan accounts as NPA on 09.10.2022.

7.2 Ld. Counsel for Applicants contended that classification of account as NPA is illegal also for the reason of respondent's charging of exorbitant, excessive, astronomical rate of interest contrary to the loaning terms and conditions. Learned counsel for the Respondent Company would rely upon the sanction letters and statement of account produced by them to drive home their contention as to their charging of interest only in accordance with contractual rate of interest. The Tribunal finds such contentions or allegations of the applicants to be unfounded and an 'afterthought' as the applicants who have admitted to have received all the three Demand Notices dated 23.08.2019, 20.01.2020 and 11.10.2022 had not any objection or representation in terms of S.13(3A) questioning the rate of interest charged or the secured debt claimed thereunder. The Tribunal refrains from delving at and deciding the said contention as the jurisdiction, authority and powers conferred in terms of S.17 of Act requires it to decide the legality of the measures and actions of the SARFAESI Act and not beyond as per the law declared by the Hon'ble Apex Court and the Full Bench of Hon'ble High Court of Madras excerpted *infra*.

7.3 The Hon'ble Apex Court in the case titled "***Transcore vs. Union of India"*** *(MANU/SC/5319/2006)* has held that the NPA Act proceeds on the premise that the secured creditor demands a crystallized liability with no room for adjudication as to the debts due and payable by the borrower. The relevant paras of said judgment is reproduced hereunder:

> *"10. .... The NPA Act proceeds on the basis that the liability of the borrower to repay has crystallized; that the debt has become due and that on account of delay the account of the borrower has become sub-standard and non-performing. The object of the DRT Act as well as the NPA Act is recovery of debt by non-adjudicatory process. These two enactments provide for cumulative remedies to the secured creditors. By removing all fetters on the rights of the secured creditor, he is given a right to choose one or more of the cumulative remedies. The object behind Section 13 of the NPA Act and Section 17 r/w Section 19 of the DRT Act is the same, namely, recovery of debt. Conceptually, there is no inherent or implied inconsistency between the two remedies. Therefore, as stated above, the object behind the enactment of the NPA Act is to accelerate the process of recovery of debt and to remove deficiencies/ obstacles in the way of realisation of debt under the DRT Act by the enactment of the NPA Act, 2002."*
>
> *"19. .... The point to be noted is that the scheme of the NPA Act does not deal with disputes between the secured creditors and the borrower. On the contrary, the NPA Act deals with the rights of the secured creditors inter se. The reason is that the NPA Act proceeds on the basis that the liability of the borrower has crystallized and that his account is classified as non-performing asset in the hands of the bank/FI. ...."*
>
> *"37. We have already analysed the scheme of both the Acts. Basically, the NPA Act is enacted to enforce the interest in the financial assets*

which belongs to the bank/ FI by virtue of the contract between the parties or by operation of common law principles or by law. The very object of Section 13 of NPA Act is recovery by non-adjudicatory process. A secured asset under NPA Act is an asset in which interest is created by the borrower in favour of the bank/ FI and on that basis alone the NPA Act seeks to enforce the security interest by non-adjudicatory process. Essentially, the NPA Act deals with the rights of the secured creditor. The NPA Act proceeds on the basis that the debtor has failed not only to repay the debt, but he has also failed to maintain the level of margin and to maintain value of the security at a level is the other obligation of the debtor. It is this other obligation which invites applicability of NPA Act. It is for this reason, that Sections 13(1) and 13(2) of the NPA Act proceeds on the basis that security interest in the bank/FI; needs to be enforced expeditiously without the intervention of the court/tribunal; that liability of the borrower has accrued and on account of default in repayment, the account of the borrower in the books of the bank has become non-performing. For the above reasons, NPA Act states that the enforcement could take place by non-adjudicatory process and that the said Act removes all fetters under the above circumstances on the rights of the secured creditor."

7.4 The Hon'ble Apex Court in its judgment rendered in the case titled ***"M/s Sidha Neelkanth Paper Industries Private Limited & Another versus Prudent ARC Limited & Others",*** reported in 2023 LiveLaw (SC) 11 held thus:

"13. As per Section 2(ha) of the SARFAESI Act, "debt" shall have the same meaning assigned to it in clause (g) of Section 2 of the Act 1993. As per section 2(g) of the Act 1993, "debt" means any liability inclusive of interest which is claimed as due from any person….., by a bank or a financial institution during the course of any business activity undertaken by the bank or the financial institution, in cash or otherwise, whether secured or unsecured, or assigned, or whether payable under a decree or order of any civil court or any arbitration award or otherwise or under a mortgage and subsisting on, and legally recoverable on the date of the application. That the "debt" means any liability inclusive of interest. As per Section 18 of the SARFAESI Act, any person aggrieved, by any order made by the DRT under section 17, may prefer an appeal within thirty days to an appellate Tribunal (DRAT) from the date of receipt of the order of DRT. Second proviso to section 18 provides that no appeal shall be entertained unless the "borrower" has deposited with the Appellate Tribunal fifty percent of the amount of "debt due" from him, as claimed by the secured creditors or determined by the DRT, whichever is less and only and only then, an appeal under Section 18 of the SARFAESI Act is permissible against the order passed by the DRT under Section 17 of the

SARFAESI Act. Under Section 17, the scope of enquiry is limited to the steps taken under Section 13(4) against the secured assets. Therefore, whatever amount is mentioned in the notice under Section 13(2) of the SARFAESI Act, in case steps taken under Section 13(2)/13(4) against the secured assets are under challenge before the DRT will be the 'debt due' within the meaning of proviso to Section 18 of the SARFAESI Act. In case of challenge to the sale of the secured assets, the amount mentioned in the sale certificate will have to be considered while determining the amount of pre-deposit under Section 18 of the SARFAESI Act. However, in a case where both are under challenge, namely, steps taken under Section 13(4) against the secured assets and also the auction sale of the secured assets, in that case, the "debt due" shall mean any liability (inclusive of interest) which is claimed as due from any person, whichever is higher."

7.5 The Hon'ble Apex Court in its judgment rendered in the case titled ***"Axis Bank vs SBS Organics Pvt. Ltd & Anr."*** in Civil Appeal No. 4379/2016 reported in MANU/SC/0438/2016 held thus:

"10.... The Appeal under Section 18 of the Act is permissible only against the order passed by the DRT under Section 17 of the Act. Under Section 17, the scope of enquiry is limited to the steps taken under Section 13(4) against the secured assets."

7.6 The Full Bench of Hon'ble High Court of Madras in its judgment rendered in the case of ***"Lakshmi Shankar Mills (P) Ltd. and Ors. vs. The Authorised Officer/Chief Manager, Indian Bank and Ors."*** reported in 2008 SCC OnLine Mad 279: MANU/TN/0676/2008 held thus :

"21. *As can be seen from the Statement of Objects and Reasons of the Securitisation Act, the main purpose of the Securitisation Act, and in particular Section 13 thereof, is to enable and empower the secured creditors to take possession of their securities and to deal with them without the intervention of the Court. Therefore, in, an application under Section 17, the Tribunal is concerned only with the validity of the acts of the secured creditor in taking possession of the securities and dealing with the same under Section 13. In our opinion, the Division Bench has rightly held that all such grounds, which would render the action of the bank/financial institution illegal, can be raised before the Tribunal in the proceedings under Section 17. It is for the Tribunal to decide in each case whether the action of the bank was in accordance with the provisions of the Act and legally sustainable. However, we hasten to add that while considering the question of validity of the action of the bank, it is not necessary for the Tribunal to adjudicate the exact amount due to the secured creditors. In other words, the purpose of an application under*

> *<u>Section 17 is not the determination of the quantum of claim per se as the Tribunal is concerned with the issue of the validity of the measures taken by the banks/financial institutions under Section 13(4).</u> In our opinion, the judgment of the Division Bench in Mison Leathers Ltd., lays down the law correctly and does not require any reconsideration."*

7.7 The faint submissions made as regards wrong classification of loan accounts as NPA and the correctness of the quantum of liability claimed in the Demand Notice is therefore neither convincing nor acceptable and the Point No.1 is thus answered in the affirmative and in favor of respondent company.

8. <u>POINT No.2 FOR CONSIDERATION:</u> *Whether section 13(4) symbolic possession notice dated 18.01.2023 is lawful, valid and proper ?*

8.1 The Ld. Counsel for applicants took this Tribunal through impugned symbolic possession notice dated 18.01.2023 contending it to be illegal for the reason of it not withdrawing the earlier possession notice dated 17.12.2022 issued by respondent company. To succor strength to his such submissions, the Ld. Counsel pointed out to the 3rd demand notice dated 11.10.2022 which refers to the respondent's withdrawal of earlier demand notice dated 20.01.2020. In reply, the Ld. Counsel for respondent company would submit that issuance of fresh statutory notice in terms of Section 13 (4) supersedes the earlier statutory notice without there being any legal requirement for specifically mentioning in the subsequent notice as regards withdrawal of the earlier statutory notice. Stating so, the Ld. Counsel also contended that as the demand notice dated 11.10.2022 dispatched on 20.10.2022 came to be served on the applicants on 22.10.2022, the earlier symbolic possession notice dated 17.12.2022 which appeared to be one inadvertently issued before the expiry of 60 days statutory time provided in terms of Section 13 (2), the respondent company did not proceed any further in pursuance of such possession notice and consciously issued the impugned possession notice dated 18.01.2023 much after expiry of the statutory 60 days period provided in demand notice dated 11.10.2022, affixed the same on 18.01.2023 on the outer door and conspicuous part of secured asset and proceeded with publication of it on 23.01.2023 in Dinakaran (Tamil daily) and Business Standard (English Daily) within 7 days from the date of their assuming of symbolic possession of secured assets.

8.2 On the side of the applicants, no provision of law or judgments could be pointed out to the effect of requiring the secured creditor to withdraw the earlier statutory notice under S.13 (4) prior to issuance of the subsequent one. The earlier Possession Notice dated 17.12.2022 served on the applicants has not been challenged by the applicants within statutory period in terms of Section 17 demonstrating the prejudice as may have suffered by them on the respondent's issuance of it. The respondent company contends to have caused the impugned symbolic possession notice dated 18.01.2023 as the earlier one dated 17.12.2022 came to be issued within the statutory 60 days period provided in Section 13(2) demand notice dated 11.10.2022 for evoking payment of secured debt in full by the borrowers, which appears to be just and proper. The Tribunal is reminded of the judgment of Hon'ble DRAT, Allahabad rendered in the case of *Bank of Baroda v. Kameshwar Lal* reported in (2019) ibclaw.in 52 DRAT, which is to the effect of subsequent notice superseding the notice without there being any need to withdraw the same and the relevant passage readeth thus:

> *"11. In this regard, the Bank is required to deliver/serve the possession notice to the borrower and to affix the same on outer door or on conspicuous part of the property as provided under Rule 8(1) of the Rules, 2002. The second step required to be taken is provided under Rule 8(2), whereby the possession notice is to be published within seven days from the date of taking possession in two leading newspapers. Thus, the possession of the property is complete only when the possession notice is served, affixed and published in the newspapers. Unless the three steps are followed, the possession cannot be said to be complete. In the instant case, the possession notice dated 29.08.2014 was issued to the*

borrower, but there is nothing on record to demonstrate that it was affixed on conspicuous part of the property as required under Rule 8(1) of the Rules, 2002. Thus even the requirement of Rule 8(1) was not completed by the Bank. Admittedly, no publication of the said notice was made in any of the newspapers, hence there was no question of compliance of Rule 8(2) of the Rules, 2002. As such it cannot be said that the Bank has taken symbolic possession as required under law in pursuance of possession notice dated 29.08.2014. Therefore, there was no requirement of restoring back the symbolic possession or withdrawing the possession notice dated 29.08.2014. Secondly, if the procedure of the first possession notice was not duly complied with and the second possession notice was issued in accordance with law, it would be treated as deemed withdrawal of earlier notice dated 29.08.2014. Thirdly, there is no impediment in issuing the second possession notice in the statute. Issuance of such second notice is not forbidden. If the Bank issued subsequent possession notice, it cannot be treated as invalid. This view is fortified by the principles laid down in the judgments of Dauji Farms Limited Vs. Dena Bank and Omeshwar Baldwa Vs. Vasavi Co-operative Urban Bank Ltd. (Scheduled Bank) (Supra). Though in those cases, the subsequent notices were issued under section 13(2) of the SARFAESI Act, but the underlying principle is applicable in issuance of the possession notice under the facts and circumstances of the present case. Lastly, the respondent has failed to prove that any prejudice has been caused to them by issuance of second possession notice dated 17.09.2014. In these circumstances, the order impugned is not sustainable."

8.3 The affixture of impugned symbolic possession notice though came to be disputed on the side of the applicants, the respondent company has made available photographs depicting affixtures of it on the outer door and conspicuous part of secured assets with a Tamil Newspaper (Dinathanthi) held by its Authorized Officer relating to Pongal celebrations. While the applicants themselves have filed copy of possession notice dated 18.01.2023 along with their SA book, the Respondent Company had made available the true copies of such notice, postal registration receipts dated 19.01.2023, and postal acknowledgment cards dated 20.01.2023 and 21.01.2023 to demonstrate due service of such notice as alluded supra. The paper publications dated 23.01.2023 of such possession notice effected in 'Business Standard' English Daily and 'Dinakaran' Tamil Daily having been published within 7 days from the date of assuming symbolic possession is in accordance with law.

8.4 The Ld. Counsel for the applicants while accepting the description of item no.1 residential property set out in impugned symbolic possession notice and its paper publication to be correct, points out to item no.2 property set out in the notice served on the borrowers as also the one published in newspapers to drive home his contention that the impugned possession notice suffers from illegality and legal infirmity in having set out a different description of property amounting to misdescription of said secured asset in negation of sub-rule (1) & (2) of Rule 8 and Appendix IV statutory format prescribed to such rules.

8.5 The Learned Counsel for Respondent Company would submit that the symbolic possession notice dated 18.01.2023 served on the borrowers sets out the description of the property of item No.2 property rightly which cannot be disputed or denied by the applicants to be the property of 3rd applicant Mr.Nallasamy. As Rule 8(1) of the Security Interest (Enforcement) Rules requires to deliver a Possession Notice prepared as nearly as possible to in Appendix IV to the Rules and to affix such Possession Notice on the outer door of the borrower, the copy of Possession Notice dated 18.01.2023 served on the borrowers and relied by them in their SA is certainly one such notice prepared **as nearly as possible** to Appendix IV. The Possession notice required to be published in two newspapers not later than seven days from the date of taking possession is as well a notice as nearly as possible to Appendix IV setting out amongst other particulars, the description of Item No.2 property by setting out its Door Nos., Town Survey Nos., Ward Nos., Block No., Street and name of Town. The Ld. Counsel contended that the details set out thereunder are as provided by the borrowers themselves in their declaration and undertaking, Respondent's sanction letter and the judgment passed in OS No.252/2003, the copies of which are produced alongwith additional typed-set of papers dated 09.6.2025 The applicants having themselves set out the particulars of properties as came to be mentioned in the Possession Notice cannot be heard to contend to have suffered any prejudice in the backdrop of law requiring publication of possession notice as nearly as possible in Appendix IV, would be their further submission.

8.6 The Tribunal on perusing the possession notice dated 18.01.2023 filed by the Applicants and the respondent bank as also the registered mortgage deed dated 27.06.2017 (Doc.No.2980/2017) that has been called for and verified by it finds the description of property of Item No.2 property set out in possession notice served on the applicants to be in consonance and conformity with the description of such properties as set out in the mortgage deed executed and registered by the 3rd applicant. The possession notice affixed on the outer door of secured asset comprises of three pages with description of properties set out thereon with boundaries and measurements as found in the possession notice relied by applicants and respondent company as also found in mortgage deed although the contents thereon is not fully legible. The applicants who had been served with possession notice and the respondent who would demonstrate to have affixed the very same possession notice on the outer doors of the secured assets (both Item Nos.1 & 2) as is evincible from photographs of such affixtures filed vide Dy. No. 1847/2025 dated 04.03.2025, could not be heard to contend anymore that some other property other than what came to be mortgaged by him was assumed possession of by the respondent company symbolically or constructively.

8.7 The Ld. Counsel for applicants vehemently argued that a conjoint reading of sub rule (1) & (2) of the Rule 8 of the Security interest (Enforcement) Rules postulates the Authorised Officer to serve, affix and publish the Possession Notice as prescribed under Appendix IV and the expression **"as nearly as possible"** in Appendix IV would only imply that the four side boundaries of the said properties and the verbatim similar description of properties should be set out in the Possession Notice served on the borrowers and the ones published in two newspapers. Ld. Counsel emphatically contended that as invocation of the provisions of the SARFAESI Act and Rules lead to drastic consequences of taking away the properties of the borrowers, the Authorised Officer should not be permitted to perform his statutory duties casually and in contrast and contrary to the statutory format prescribed under the Rules. In other words, the emphasis of the learned counsel for the applicants was on the lines that if a particular thing is to be done in a particular way, it should be done that way and not any other way.

8.8. The Tribunal is conscious of the legal requirement of the Security Interest (Enforcement) Rules mandating publication of statutory notices at three stages. Firstly, the need to publish Demand Notice in terms of S.13(2) in two leading newspapers including one in vernacular language having 'sufficient circulation' in the locality in which the borrowers or their agents actually and voluntarily reside or carry on business would arise provided that the Authorised Officer has reason to believe that service of such notice is avoided or that for any other reasons the service cannot be made as stated in sub-rule (1) of Rule 3. Secondly, the publication of the Possession Notice is envisaged under Sub Rule (2) of Rule 8 to be done in two leading newspapers including one in vernacular language having 'sufficient circulation' in the locality of the secured immovable asset. Thirdly, publication of sale notice is mandated to be done in two leading newspapers one in vernacular language having 'wide' circulation in the locality of secured immovable asset. While the publication of Demand Notice is contemplated to serve as a notice to the concerned borrower(s) alone requiring to comply with the demand made in terms of S.13(2) of the Act, the publication of sale notice is contemplated to serve as notice to public in general and to the borrower in particular for inviting and maximizing the participation of general public in any public auction or tender. The Possession Notice required to be published is to caution the general public from in any manner dealing with the secured asset of the borrower which has been constructively taken possession of by the secured creditor. If any third party amongst general public stood prejudiced by the short description of property or mis-description of property in possession notice as alleged by the applicants and found to be not by the Tribunal, they could contend and claim themselves as 'any persons aggrieved' under S.17(1) of SARFAESI Act if they could demonstrate any loss suffered by them on that score in having been misled and dealt with the said property. In any respects the applicants who have been cautioned not to deal with the property with general public cannot cry foul on that score. The Tribunal holds so fortified by judgment of the Hon'ble High Court of Kerala rendered in the case titled ***"Varghese Ukken vs. State Bank of India"***, reported in MANU/KE/2161/2010 wherein it is held as follows:-

> *"20. With regard to the non mentioning of the encumbrances covered by Ext. P3 'encumbrance certificate' and such other heads, it is very much relevant to note that, the liability to the Income Tax as well as the Sales Tax Departments has already been cleared by the Bank as observed in paragraph 2 of Ext. Rule 1(e) judgment, since the Petitioners did not choose to satisfy the same, in spite of issuance of Ext. Rule 1(i) letter. The attachment by the Civil Court was lifted upholding the 'priority right' of the Bank as per Ext. Rule 1(l) order passed by the concerned Civil Court, which in turn was recorded and W.P.(C) 33036 of 2007 filed by the concerned Chitty Company (Plaintiff before the Civil Court) was disposed of, permitting the Bank to appropriate the sale proceeds as per Ext. Rule 1 (m) judgment. Even otherwise, non-mentioning of the encumbrances, if any, in the sale notification is not fatal or significant as far as the defaulter is concerned and absolutely no prejudice has been caused to the Petitioners in this regard. If at all anybody is to be aggrieved, it can*

> *only be the prospective purchasers like the 3rd Respondent, who do not have any such grievance, to contend that the amount quoted by them was on the firm belief that there was no encumbrance, in turn seeking to avoid the liability under the contract. As it stands so, there is absolutely no legal or factual basis for the contentions raised by the Petitioners on this score."*

8.9 The applicants who had sufficient notice of Possession Notice by way of service of the same which sets out the description of property taken possession of the Authorised Officer as found in the mortgage deed executed by the 3rd Applicant, cannot contend to have suffered any prejudice as the notice served on them is to intimate them about the secured creditor's assuming of constructive possession of secured asset and to caution them from dealing with or disposing of the property charged to the secured creditor to the extent of the debts as set out in the possession notice. The brief description of the secured asset given in the possession notice published in two newspapers is for serving as notice to general public to caution them from entering into any dealing with the concerned borrower in respect of such property and although the said notice is contemplated to be a notice to the borrower as well, the 3rd applicant or any other applicants could not contend to have suffered prejudice personally on account of the respondent's setting out of a brief description of the properties admittedly mortgaged by 3rd applicant as is discernible from declaration cum undertaking, sanction letter and the Sub Court order made available by them to the respondent company. What the applicants are now doing is, harping on hyper-technicalities to have the possession notice set aside on the score of such paper publication not setting out the entire description of properties and linear measurements.

8.10 There is yet another reason for the Tribunal to hold the non-disclosure of the entire boundaries and linear measurements in the Possession Notices published in newspapers to be of less significance or no adverse legal consequence being reminded of Appendix IV A Sale

Notice format inserted to the Rules effective from 18.10.2018 which requires to provide only a short description of the property with known encumbrances if any requiring the public in general and borrowers in particular to refer to link provided in secured creditor's website for more details or further details. While the sale notice prescribed to be published in two leading newspapers having wide circulation itself is to be given setting out short description of immovable property, although in the considered view of the Tribunal providing the entire description of secured asset would be profitable to any participants of an auction sale, setting out of such short description of property in a Possession Notice published in newspapers would certainly be not of any disadvantage to the applicants in as much as the said notice cautions the borrower and general public and is rather restraining them from in any manner dealing with the secured asset charged to the secured creditor and taken possession of by its Authorised Officer. The Tribunal ineluctably holds so, reminiscing the following judgments:

(i) The Hon'ble Apex Court in the case of ***"ITC Limited vs. Blue Coast Hotels Ltd. and Ors."*** reported in MANU/SC/0263/2018, held thus:

> *"27. This question must be answered upon a construction of the statute according to its true intent by taking into account the language in which the intent is clothed. In a passage from Crawford's Statutory Construction, it is stated -*
>
> *The question as to whether a statute is mandatory or directory depends upon the intent of the Legislature and not upon the language in which the intent is clothed. The meaning and intention of the Legislature must govern, and these are to be ascertained not only from the phraseology of the provision, but also by considering its nature, its design, and the consequences which would follow from construing it the one way or the other.*
>
> *This has been followed in several decisions of the Supreme Court21. Subbarao, J. in State of U.P. v. Babu Ram Upadhya MANU/SC/0312/1960 : AIR 1961 SC 751 points out, "For ascertaining the real intention of the Legislature, the court may consider inter alia, the nature and design of the statute, and the*

consequences which would follow from construing it the one way or the other; the impact of other provisions whereby the necessity of complying with the provisions in question is avoided; the circumstances, namely, that the statute provides for a contingency of the noncompliance with the provisions; the fact that the non-compliance with the provisions is or is not visited by some penalty; the serious or the trivial consequences, that flow therefrom; and above all, whether the object of the legislation will be defeated or furthered".

(ii) The Full Bench of the Hon'ble Apex Court in the case titled ***"L & T Housing Finance Ltd. v. Trishul Developers"*** reported in AIR 2020 SC 5339 : MANU/SC/0793/2020, held thus:

"19. In the facts and circumstances, when the action has been taken by the competent authority as per the procedure prescribed by law and the person affected has a knowledge leaving no ambiguity or confusion in initiating proceedings under the provisions of the SARFAESI Act by the secured creditor, in our considered view, such action taken thereof cannot be held to be bad in law merely on raising a trivial objection which has no legs to stand unless the person is able to show any substantial prejudice being caused on account of the procedural lapse as prescribed under the Act or the Rules framed thereunder still with a caveat that it always depends upon the facts of each case to decipher the nature of the procedural lapse being complained of and the resultant prejudiced if any, being caused and there cannot be a strait jacket formula which can be uniformly followed in all the transactions.

20. Adverting to facts of the instant case, we are of the view that the objection raised by the Respondents was trivial and technical in nature and the Appellant (secured creditor) has complied with the procedure prescribed under the SARFAESI Act. At the same time, the objection raised by the Respondents in the first instance, at the stage of filing of a Securitisation Application before DRT under the SARFAESI Act is a feeble attempt which has persuaded the Tribunal and the High Court to negate the proceedings initiated by the Appellant under the SARFAESI Act, is unsustainable more so, when the Respondents are unable to justify the error in the procedure being followed by the Appellant (secured creditor) to be complied with in initiating proceedings under the SARFAESI Act.

21. The submission made by the Respondent's counsel that the notice Under Section 13(2) of the Act was served by the authorised signatory of "L & T Finance Ltd." and that was not the secured creditor in the facts of the case, in our considered view, is wholly without substance for the reason that "L & T Finance Ltd." and "L & T Housing Finance Ltd." are the companies who in their correspondence with all its customers use a common letterhead having their self-same authorised signatory, as being manifest from the record and it is the seal being put at one stage by the authorised signatory due to some human error of "L & T Finance Ltd." in

> *place of "L & T Housing Finance Ltd.". More so, when it is not the case of the Respondents that there was any iota of confusion in their knowledge regarding the action being initiated in the instant case other than the secured creditor under the SARFAESI Act for non-fulfillment of the terms and conditions of the Facility Agreement dated 11th August, 2015 or any substantial prejudice being caused apart from the technical objection being raised while the demand notice Under Section 13(2) was served under the SARFAESI Act or in the proceedings in furtherance thereof no interference by the High Court in its limited scope of judicial review was called for. Consequently, in our view, the judgment of the High Court is unsustainable and deserves to be set aside."*

8.11 The ratio and dicta laid down in judgment of Hon'ble Apex Court in ***"Sanjay Sharma vs. Kotak Mahindra Bank Ltd & Ors."*** reported in MANU/SCOR/151644/2024 *and* ***"Celir LLP vs. Sumati Prasad Bafna and Ors."*** reported in MANU/SC/1343/2024 are to the effect that a sale would stand vitiated should it suffer from fundamental procedural error and not on account of mere irregularities or technicalities. Setting out a brief description of property in Possession Notice with the material particulars otherwise provided to identify the same by itself cannot be dubbed to be a 'fundamental error' in the light of sub rule (1) of Rule 8 mandating the Authorised Officer to deliver a notice to the borrower and affix it at the outside door as nearly as possible in Appendix IV format.

8.12 The Tribunal now proceeds to consider whether the possession notice stated to be served unsigned on the borrowers would vitiate the respondent's assuming of physical possession of secured assets. Ld. Counsel for the Respondent company assertively argued that the true copy of Possession Notice filed by them comprises of two pages with round seal, signature of Authorised Officer, printed logo of the respondent company on the right hand side corner on its top and address of registered office in the bottom of such notice whereas the one filed by applicants alongwith their SA book is of three pages with the conspicuous absence of printed logo on the top, signature of authorised officer, round seal and the address of registered office in all such pages which should lead to an inevitable conclusion that the possession notice so filed by them is manipulated or fabricated one. Learned counsel contended that the originals of such possession notice which are belatedly made available by the applicants are not the ones sent by them. Stating so, the Ld. Counsel took this Tribunal to photos of affixture of possession notice comprising of three pages containing the round seal and signature thereon. Pointing out to sub-rule (2-A) of Rule 8 of the relevant rules requiring service of all notices under these Rules through electronic mode of service and the paper publication contemplated to be done, non signing of authorised officer even if it be in any of its notices due to oversight or advertence would not itself vitiate the assuming of symbolic possession_by the Authorised Officer had there been substantial compliance of service, affixture and publication of such notice, would be the further submission on the side of the respondent company. By way of replying to such contentions, learned counsel for applicants took this Tribunal to Appendix IV format which mandates the Authorised Officer to sign and issue the same and added that the possession notice served to them being unsigned cannot be held to be one signed and issued by the Authorised Officer for the reason of which alone the impugned symbolic possession notice is liable to be set aside.

8.13 The symbolic possession notice filed and relied by the applicants, of course is seen unsigned. The true copy of possession notice filed on the side of the Respondent company contains its printed logo on the right side corner on the top and the address of its Registered Office in its bottom in the first page of such notice and continuation sheets as well contains its printed logo of said company on the right hand side corner. The possession notice affixed on the outer door of the secured asset contains the printed logo and the printed address of the Registered Office and is seen signed over the round seal of the said company in all the three pages. The documents filed by respondent company along with typed-set of papers include postal receipts dated 19.01.2023 evidencing its service of Possession Notice on all the applicants on 20.01.2023 or 21.01.2023 as the case may be. The Ld. Counsel for the Applicants had on 07.04.2026 filed additional typed set of papers vide Dy.No.4542/2026 enclosing therewith the five postal covers with registration receipts dated 19.01.2023 affixed thereto and possession notices served on all the Applicants without bearing the signature of Authorised Officer in any of the three pages with just the seal of Respondent Company alone over and above the word Authorised Officer in the third page of each of such possession notice. Ld. Counsel vehemently contended that the unsigned possession notice run counter and contra to the statutory format provided in Appendix – IV to the Security Interest (Enforcement) Rules as the possession of any secured asset could be taken only by the Authorized Officer of the Respondent Company with his signature and seal. The service of unsigned Possession Notices by the Applicants is demonstrative of the fact that the symbolic Possession alleged to be have been taken by the Respondent Bank was not through the Authorised officer rendering such actions and measures illegal and invalid in the eye of law, would be the further submission of the Applicants. Ld. Counsel for Respondent Bank stoutly denies and disputes the copies of five Possession Notices since filed by Applicants stating the purported Possession Notices are not the ones issued by them while asserting their contention that their logo on the top and address of its registered office in the bottom are conspicuously absent in the unsigned Possession Notices belatedly filed by the Applicants.

8.14 The Tribunal is confronted with a vexed issue of the Applicants producing the copies of unsigned possession notices purportedly served on them and the respondent producing the copies of postal receipts and office copy of possession notice containing printed logo on the top and Registered Office address on the bottom besides the photograph of affixture of the possession notice on letter head having printed logo on the top and Registered office address at the bottom in all pages and the copies of paper publication of such notices. As either of the parties are producing documents from their custody and as once any postal cover served on the Applicant(s) is opened at their end and not before the adjudicating authority, it could not be discerned or detected with precision and clarity as to whether the notice sent therewith was unsigned or not. The Tribunal therefore proceeds to decide the matter considering the legislative intent mandating service of such notice. The applicants themselves having conceded to the fact as to service of Possession Notices as is evincible from the served notices with covers and postal acknowledgement cards produced on either side, the respondent's assuming of constructive possession cannot be held to be in any way invalid or illegal as the purposive intendment of delivering such a Possession Notice by the Authorised Officer on the concerned borrower is for noticing the concerned borrower(s) about the secured creditor's taking of symbolic possession of the secured asset and cautioning them to refrain from dealing with secured asset charged to it. The said object is achieved on the applicants' production of the possession notice purportedly served on them. The Tribunal unhesitantly holds so reminiscing the judgment of Hon'ble Apex Court rendered in the case titled "***Prabin Ram Phukan & Anr vs State Of Assam & Ors.***" reported in 2015 (3) SCC 605 : MANU/SC/1186/2014 wherein it is held thus *:*

> *"26. In our considered opinion, there lies a distinction between non-service of notice and a notice though served but with some kind of procedural irregularities in serving. In the case of former category of cases, all consequential action, if taken would be rendered bad in law once the fact of non-service is proved whereas in the case of later category of cases, the consequential action, if taken would be sustained. It is for the reason that in the case of former, since the notice was not served on the person concerned he was completely unaware of the*

> *proceedings which were held behind his back thereby rendering the action "illegal" whereas in the case of later, he was otherwise aware of the proceedings having received the notice though with procedural irregularity committed in making service of such notice on him.* ***If a person has a knowledge of the action proposed in the notice, then the action taken thereon cannot be held as being bad in law by finding fault in the manner of effecting service unless he is able to show substantial prejudice caused to him due to procedural lapse in making service on him.*** *It, however, depends upon individual case to case to find out the nature of procedural lapse complained of and the resultant prejudice caused. The case in hand falls in former category of case."*

8.15 The Ld. counsel for applicants during his course of final arguments had filed Demand Notices dated 10.10.2022 vide Dy. No.5001/2026 dated 16.04.2026 issued by Authorised Officer viz. Mr. Boopathi R and pointedly argued that the search conducted by the applicants now divulged the respondent's issuance of yet another Demand Notice dated 10.10.2022 prior to issuance of the impugned Demand Notice dated 11.10.2022. Taking this Tribunal through the Demand Notice dated 11.10.2022 issued by its Authorised Officer Mr. Kumaresan R filed on the applicants' side and the office copy of Demand Notice dated 11.10.2022 filed on the side of Respondent Company bearing the signature of Authorised Officer Mr. Naveen R, it was emphatically argued that the impugned Demand Notice dated 11.10.2022 issued without withdrawing the 3rd and earlier Demand Notice dated 10.10.2022 is as well liable to be set aside. The Demand Notices dated 10.10.2022 and 11.10.2022 having been respectively issued by two different authorized officers viz. Mr. Boopathi R and Mr. Kumaresan and the office copy of the Demand Notice dated 11.10.2022 filed by the Respondent along with reply statement bearing the signature of yet another authorized officer viz. Mr. Naveen R, Ld. Counsel for the applicants assertively argued that none of the signatories are authorized officers of the respondent company, for the reason of which alone the impugned symbolic possession notice dated 18.01.2023 would have no legs to stand. In reply, the Ld. Counsel for respondent company would submit that the applicants cannot be permitted to adduce evidence in the absence of pleadings as regards the Demand Notice dated 10.10.2022 as they have been served with subsequent notice dated 11.10.2022 which alone is stated to be the respective Demand Notice in respect of the impugned section 13(4) symbolic possession notice dated 18.01.2023 and section 14 proceedings as is evincible from the impugned order dated 13.4.2023 in CMP No.4801/2023 on the file of Ld. CJM, Erode. Ld. Counsel also submitted that the issuance of the 4th and last Demand Notice dated 11.10.2022 has not caused any prejudice to the applicants and the office copy of Demand Notice dated 11.10.2022 filed with the name of authorized officer Mr. Naveen R is not illegal or invalid since the Demand Notice dated 11.10.2022 is admittedly served on the applicants. To falsify the contention raised by Ld. Counsel for applicants as to none of the three officers viz. Mr. Boopathi, Mr. Kumaresan or Mr. Naveen are authorized officers of the company in terms of Rule 2(a) of the Security Interest (Enforcement) Rules, the respondent company vide Memo dated 21.5.2026 produced Resolution and Authorisation letters showing all three of them to have the authorization of the respondent company to invoke the provisions of SARAFESI Act as its Authorised Officer. The Ld. Counsel for Respondent Bank also placed respectful reliance on judgment dated 24.02.2026 of Hon'ble DRAT, Kolkata rendered in the case titled ***"M/s. PNB Housing Finance Ltd. vs. Mr. Koratla Suresh Kumar"*** in MA No.105 of 2025, reported in *(2026) ibclaw.in 78 DRAT* which readeth thus:

> *"**3.** Learned Counsel for Appellant would submit that the impugned order suffers from material illegalities. The concerned Officer was well within the power of that of an Authorised Officer. It is submitted that the Appellants herein are a Financial Institution which is duly covered under the definition of Secured Creditor. Learned Counsel has placed reliance upon Section 2 (m)(iv) and 2(c) read with Section 2(z)(d) and 2 (z)(f) along with Section 13(1) and 13(4) of the SARFAESI Act, 2002 (hereinafter referred to as the 'Act').*

__4.__ Learned Counsel has further placed reliance upon Rule 2 (a) and 2(b) to press the issue of the word "Authorised Officer". It is submitted that the Officer who signed the papers was duly authorized by the Appellants under Rule 2(a) of the Security Interest (Enforcement) Rules, 2002 (hereinafter referred to as the 'Rules') under the Resolution of the Board of Directors of the Company in its Meeting dated 2ND May, 2012.

__5.__ Per contra, Learned Counsel for Respondent would submit that the concerned officer is only authorized for collection of amount; he is not an Authorised Officer. It is further submitted that apart from the issue considered by the Learned DRT several other issues were raised by the Appellant in their I.A. which have not been considered by the Learned DRT.

__6.__ As far as issue of Authorised Officer or the Financial Institution is concerned, law is very well settled, as has been defined in the Act under Section 2(m)(iv), 2(z)(d), 2 (z)(f) and under Section 13(1) and 13(4) of the Act which reads as under:

2 (m) (iv) any other institution or non-banking financial company as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934), which the Central Government may, by notification, specify as financial institution for the purposes of this Act;

2 (zd) "secured creditor" means-

(i) any bank or financial institution or any consortium or group of banks or financial institutions holding any right title or interest upon any tangible asset or intangible asset as specified in clause (1);

(ii) debenture trustee appointed by any bank or financial institution; or

(iii) an asset reconstruction company whether acting as such or managing a trust set up by such asset reconstruction company for the securitisation or reconstruction, as the case may be; or

(iv) debenture trustee registered with (the Board and appointed) for secured debt securities; or

(v) any other trustee holding securities on behalf of a bank or financial institution in whose favour security interest is created by any borrower for due repayment of any financial assistance;

2(zf) "security interest" means right, title or interest of any kind, other than those specified in section 31, upon property created in favour of any secured creditor and includes-

(i) any mortgage, charge, hypothecation, assignment or any right, title or interest of any kind, on tangible asset, retained by the secured creditor as an owner of the property, given on hire or financial lease or conditional sale or under any other contract which secures the obligation to pay any unpaid portion of the purchase price

of the asset or an obligation incurred or credit provided to enable the borrower to acquire the tangible asset; or

(ii) such right, title or interest in any intangible asset or assignment or licence of such intangible asset which secures the obligation to pay any unpaid portion of the purchase price of the intangible asset or the obligation incurred or any credit provided to enable the borrower to acquire the intangible asset or licence of intangible asset;]

"13. Enforcement of security interest. –

(1) Notwithstanding anything contained in section 69 or section 69-A of the Transfer of Property Act, 1882 (4 of 1882), any security interest created in favour of any secured creditor may be enforced, without the intervention of the Court or tribunal, by such creditor in accordance with the provisions of this Act.

(4) In case the borrower fails to discharge his liability in full within the period specified in sub-section (2), the secured creditor may take recourse to one or more of the following measures to recover his secured debt, namely: –

(a) 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;

(b) take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset:

Provided that the right to transfer by way of lease, assignment or sale shall be exercised only where the substantial part of the business of the borrower is held as security for the debt:

Provided further that where the management of whole of the business or part of the business is severable, the secured creditor shall take over the management of such business of the borrower which is relatable to the security for the debt;

(c) appoint any person (hereafter referred to as the manager) to manage the secured assets the possession of which has been taken over by the secured creditor;

(d) require at any time by notice in writing, any person who has acquired any of the secured assets from the borrower and from whom any money is due or may become due to the borrower, to pay the secured creditor, so much of the money as is sufficient to pay the secured debt."

***7.** Authorised Officer is also defined under Rule 2(a) of the Rules. Rule 2(a) reads as under:*

"2. Definitions. In these rules, unless the context otherwise requires, –

(a) "authorised officer" means an officer not less than a chief manager of a public sector bank or equivalent, as specified by the Board of Directors of 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."

8. *Hence, as far as the issue of the "Authorised Officer" is concerned or the powers of the person who signed the notices, are concerned, it is well within the ambit of the law and the finding of the Learned DRT appears to be misconstrued treating the Appellants as a "Bank". Appellants are also covered under the definition of 'Financial Institution'. Accordingly, the notices were issued by a competent person."*

8.16 In view of the copies of Board Resolution dated 02.05.2012 and the authorization letters issued to Mr.Naveen, Mr. Boopathi and Mr. Kumaresan by the Respondent company, there is no pale of doubt that each of them being the authorized officer are competent to invoke the provisions of the SARFAESI Act, they being Branch Collection Incharge in the said company. The Hon'ble DRAT Kolkatta having upheld the authority of similar Collection Incharge by virtue of the Resolution dated 02.5.2012 of the Board of Directors of Respondent company, the Tribunal has no reason to hold it otherwise since the judicial propriety and discipline demands of it to respectfully follow the binding judgment of the Hon'ble DRAT decided in the case of the respondent company itself on the very same issue and contention raised before it. The Tribunal have no reason to hold the office copy of Demand Notice dated 11.10.2022 signed and produced to be that of its authorized officer Mr. Naveen. R to be illegal since the Demand Notice dated 11.10.2022 signed and issued by another Authorised officer Mr. Kumaresan to the borrower and the office copy since produced are ones issued by any of the authorized officers competent to issue the same. The schemes of the SARFAESI Act permits any of its officers authorized on behalf of the secured creditor to exercise its right of enforcement of security interest in terms of S.13(12) r/w. Rule 2 (a) of the relevant Act and Rules. The S.14 petition is seen to have been filed by authorized officer Mr. Kumaresan whose signature is found in the impugned Demand Notice dated 11.10.2022 concededly served on the applicants and therefore, there can be no quarrel or qualms with regard to the competency of said Mr. Kumaresan to have caused S.13(2) Demand Notice or filed S.14 Petition in his capacity as such in pursuance of the Board Resolution dated 02.05.2012 and authorization letter issued to him subsequently. The impugned Demand Notice dated 11.10.2022 though is now held out to be the 4th Demand Notice, that by itself is no reason to hold it to be invalid or illegal since it only give fresh lease of time by 60 days for the concerned borrowers to discharge the secured debt from its receipt and has not subjected them to any sort of prejudice or hardships. The issuance of more than one Demand Notice in succession of the earlier ones has the sanction of law in view of the following judgments :

(i) The Division Bench of Hon'ble High Court of Madras in its judgment rendered in the case titled ***"Abdul Azeez Sons and Company vs. Indian Bank and Ors."*** reported in MANU/TN/9219/2007: Indian Kanoon - http://indiankanoon.org/doc/199434492/ held thus:

> *"13. But, insofar as the SARFAESI Act is concerned, the scope of the Act, does not prohibit the issue of any number of notices under Section 13[2]. Therefore, the application of the provisions of Section 13[2] of the General Clauses Act to the word "notice" found in Section 13[2] of the SARFAESI Act, is justified."*

(ii) The Division Bench of Hon'ble High Court of Madras in its judgment rendered in the case titled ***"Precision Fastenings vs. State Bank of Mysore"*** reported in MANU/TN/3778/2010 :

> *"7.* ***The only other contention to be considered is as to whether the Respondent/ Bank is entitled to invoke Section 13(2) of SARFAESI Act once on 19.9.2003 and again by issuing subsequent notice on 8.6.2009****. In the first place, the said contention need not be gone into in this writ petition since the Petitioner is stated to have chosen to challenge the subsequent notice issued under Section 13(4) of SARFAESI Act, dated 23.11.2009 by approaching the Debts Recovery Tribunal.* ***In any event, we do not find any statutory prohibition in law from issuing any fresh notice****. Reliance placed upon by learned Counsel for the Petitioner the decision of a learned single Judge of Jharkhand High Court in Stan Commodities Pvt. Ltd. v. Punjab and Sind Bank AIR 2009 JH 14 cannot be applied inasmuch as that was a case where after the issuance of notice under Section 13(2) of SARFAESI Act and after receipt of objection, there*

was no further proceeding even by issuance of any notice under Section 13(4) of SARFAESI Act. After a gap of about three years, in continuation of the earlier notice issued in the year 2002 when the notice under Section 13(4) of SARFAESI Act was sought to be issued in the year 2007, the learned Judge took the view that without filing any reply to the objection of the borrower to the notice issued under Section 13(2) of SARFAESI Act, the Bank cannot take recourse to the provisions as provided under Section 13(4) of the SARFAESI Act. The facts involved in the said case are entirely different to the facts referred to herein."

8.17 The applicants' other contention that the Respondent Company had not replied to their objection/representation dated 30.01.2023 in terms of S.13(3A) rendering the impugned measures illegal and invalid, received the further consideration of the Tribunal and it is however unappreciative of such submission since the impugned possession notice is dated 18.01.2023 which came to be issued and served on 20.01.2023 and 21.01.2023 prior to the applicants' issuance of letter dated 30.01.2023 which in any respect do not qualify to be a representation/objection as per S.13(3A) not setting out any objection to S.13(2) Demand Notice in any respects as alluded elsewhere in this order. The fourth and last Demand Notice dated 11.10.2022 having been served on the applicants on 22.10.2022, the impugned possession notice dated 18.01.2023 is one issued after 60 days statutory period provided to the applicants to repay the secured debt and atleast 10 days prior to applicants' submission of a letter dated 30.01.2023. S.13(3A) representation or objection is one required to be given by the borrower(s) prior to the secured creditor's assuming of symbolic possession in terms of S.13(4) of the Act. The applicants' allegation as regards the respondent's non consideration of their representation dated 30.01.2023 is an idle rather futile attempt of putting the cart before the horse which the Tribunal could not hold it to be an illegality or infirmity in the respondent's assuming of symbolic possession in pursuance of S.13(4) possession notice dated 18.01.2023 and answers Point No.2 in the affirmative and in favour of the respondent company.

9. <u>POINT NOS. 3 AND 4 FOR CONSIDERATION</u>:

(i) *Whether section 13 (4) measures and section 14 proceedings of Respondent Company is rendered illegal and invalid for non-consideration of representation/objection of the Applicants' reply dated 30.01.2023 ?*

(ii) Whether the order dated 13.04.2023 made by Ld. CJM, Erode in Crl.M.P.No.4801/2023 is in negation of the legal requirements of section 14 of SARFAESI Act?

9.1 The order dated 13.04.2023 passed by *Ld. CJM, Erode in Crl.M.P.No.4801/2023* in pursuance of S.14 filed by Respondent company is assailed on the premise of the failure of Ld. CJM to appreciate non compliance of S.14 (1) (vii) of SARFAESI Act which refers to the requirement of 'Authorised Officer' to affirm amongst its declarations the particulars about representation/ objections received by borrowers in reply to the Demand Notice and the communication of reasons by the secured creditor for non acceptance of such objections or representation. The applicants except producing the letter dated 30.01.2023 contending it to be reply/objection under S.13(3A) would not produce receipt/postal acknowledgment card and proceeded with their submissions that the said copies having being mislaid, the respondent's admission in their pleadings and written arguments would by itself demonstrate their receipt of such an objection/representation. On the side of the Respondent Company it was urged to consider that no such reply dated 30.01.2023 was received by them and even if it be a reply or objection as contended by the applicants it does not qualify to be one issued in terms of S.13(3A) of the Act. The Tribunal have found and held elsewhere in this order as to the letter dated 30.1.2023 relied by applicants and required to be held as objection / representation in terms of S.13(3A) cannot be treated as such even if it is to be presumed to be so caused by the borrowers and to have been so received by the Respondent Company eventually. As the symbolic possession came to be taken on 18.01.2023 after expiry of 60 days period provided in S.13(2) Demand Notice dated 11.10.2022 dispatched on 20.10.2022 and received by borrowers on 22.10.2022, any letter, reply, representation or objection sent subsequent to initiation of S.13(4) measures would not be an objection in terms of S.13(3A).

9.2. Noticeably section 14 petition as also the affidavit of the Authorized Officer is to the effect of the Respondents therein neglecting to comply with the demand made under S.13(2) of the Act and the respondent's assuming of symbolic possession of secured asset on 18.1.2023 and publishing of such notice in 'Business Standard' and 'Dinakaran' on 23.01.2023. The Respondent company herein which would deny to have received such objection / representation dated 30.01.2023 is not expected to mention about a letter of the borrowers not received by it at all when the applicants could not demonstrate their sending of such objection or representation by registered post or otherwise. Even if the said letter dated 30.01.2023 is to be presumed to have been sent by the applicants, the said letter admitted to have been sent after taking of symbolic possession is of no legal consequences, it not having been a representation or objection which should have preceded the respondent's taking of S.13 (4) or 14 measures.

9.3 Ld. Counsel for the Applicants upon pointing out to the contentions averred in S.14 petition and the affidavit vehemently argued as his second contention as to there having been no affixture of symbolic Possession Notice on the secured asset for the reason of which alone the impugned symbolic possession notice dated 18.01.2023 and the order dated 13.4.2023 passed by Ld. CJM 4801/2023 are to be set aside. On a mere rolling of eyes on the nine clauses, affirmations or declarations required to be set out in the affidavit of the Authorised Officer accompanying S.14 petition, it is obvious that there is not any legal mandate for mentioning anything about the respondent's taking of symbolic or constructive possession or as regards serving, affixture of publication of such notice meaning thereby that it is not a mandatory requirement of law to set out details of secured creditor's assuming of symbolic possession for entitling it to take physical possession of the secured asset. The Tribunal ineluctably holds so reminiscing the following judgments :

(i) The Hon'ble Apex Court in the case titled ***"Standard Chartered Bank and Ors. vs. V. Noble Kumar and Ors."*** reported in MANU/SC/0874/2013 held thus:

> *"28. The satisfaction of the Magistrate contemplated under the second proviso to Section 14(1) necessarily requires the Magistrate to examine the factual correctness of the assertions made in such an affidavit but not the legal niceties of the transaction. It is only after recording of his satisfaction the Magistrate can pass appropriate orders regarding taking of possession of the secured asset.*
>
> *33. The High Court opined that Rule 8 of the Security Interest (Enforcement) Rules, 2002 provides for certain (i) procedure to be followed by the secured creditor taking possession of the secured asset. The High Court opined that even in a case where procedure contemplated under Section 14 is resorted to for obtaining possession of the secured assets, compliance with Rule 8 is mandatory. Such a requirement according to the High Court arises because in view of the High Court:*
>
> *The object of Section 14 is only to be invoked in case the secured creditor faces obstruction and not as a routine bypassing the provisions of Section 13(4).*
>
> *Under Rule 8, the secured creditor is required to deliver to the borrower a notice prepared as nearly as possible in Appendix IV to the Rules and by affixing such notice to the property. Further Sub-rule (2) which came to be substituted in 2007 in original provides that the notice contemplated under Sub-rule (1) is required to be published in two leading newspapers having sufficient circulation in the locality of which at least one should*

be in vernacular language. Prior to 2007 the requirement of publication in vernacular newspaper was not there.

34. The High Court recognized that the language of Rule 8 does not expressly warrant the compliance with the procedure contemplated therein when Section 14 is resorted to for obtaining possession of the secured asset:

In the absence of the rule, the strict compliance of the provisions of Section 13(4) and Rule 8, even in case of possession taken by virtue of an order under Section 14, assumes importance.

35. We are of the opinion that the High Court clearly erred in recording such a conclusion. The language of Rule 8 does not demand such a construction. On the other hand, a Magistrate whose functioning is structured by the Code of Criminal Procedure is required to act in accordance with the provisions of the said code unless expressly ordained otherwise by any other law. It is not a case that Code of Criminal Procedure never prescribed for the procedure to be followed by the Magistrate in a case where the Magistrate is required to take possession of property. For example, under Section 83 of the Code, a criminal Court is authorized to attach the movable or immovable property or both belonging to a proclaimed offender. Sub-sections (3) and (4) to Section 83 specifically provide that once an order of attachment under Sub-section (1) is made by the criminal Court, the property which is the subject matter of such attachment shall either be seized or taken possession of as the case may be depending upon the fact whether the property is movable or immovable. Both the Sub-sections contemplate the appointment of receiver. It is declared under sub-Section (6) that the powers, duties and liabilities of a receiver appointed under Section 83 are the same as those of a receiver appointed under the Code of Civil Procedure, 1908. Order XL of the Code of Civil Procedure deals with the appointment of the receiver. Rule 1 authorizes the Court to appoint a receiver:

36. Therefore, there is no justification for the conclusion that the receiver appointed by the Magistrate is also required to follow Rule 8 of the Security Interest (Enforcement) Rules, 2002. The procedure to be followed by the receiver is otherwise regulated by law. Rule 8 provides for the procedure to be followed by secured creditor taking possession of the secured asset without the intervention of Court. Such a process was unknown prior to the SARFAESI Act. So, specific provision is made under Rule 8 to ensure transparency in taking such possession. We do not see any conflict between different procedures prescribed by law *for taking possession of the secured asset. The finding of the High Court in our view is unsustainable.*

37. Thus, there will be three methods for the secured creditor to take possession of the secured assets:

(i) The first method would be where the secured creditor gives the requisite notice under Rule 8(1) and where he does not meet with any resistance. In that case, the authorised officer will proceed to take steps as stipulated under Rule 8(2) onwards to take possession and thereafter for sale of the secured assets to realise the amounts that are claimed by the secured creditor.

(ii) The second situation will arise where the secured creditor meets with resistance from the borrower after the notice under Rule 8(1) is given. In that case he will take recourse to the mechanism provided under Section 14 of the Act viz. making application to the Magistrate. The Magistrate will scrutinize the application as provided in Section 14, and then if satisfied, appoint an officer subordinate to him as provided under Section 14 (1)(A) to take possession of the assets and documents. For that purpose the Magistrate may authorise the officer concerned to use such force as may be necessary. After the possession is taken the assets and documents will be forwarded to the secured creditor.

(iii) The third situation will be one where the secured creditor approaches the Magistrate concerned directly under Section 14 of the Act. The Magistrate will thereafter scrutinize the application as provided in Section 14, and then if satisfied, authorise a subordinate officer to take possession of the assets and documents and forwards them to the secured creditor as under Clause (ii) above.

38. In any of the three situations, after the possession is handed over to the secured creditor, the subsequent specified provisions of Rule 8 concerning the preservation, valuation and sale of the secured assets,, and other subsequent rules from the Security Interest (Enforcement) rules, 2002, shall apply."

(ii) The Division Bench of Hon'ble High Court of Madhya Pradesh in its judgment dated 27.4.2023 rendered in the case titled ***IDFC First Bank Ltd. v. State of Madhya Pradesh and Ors.*** in W.P.No.4441 of 2023 held that non filing of advertisement under S.13(4) of Securitization Act will not be an impediment for the Petitioner if S.13(2) requirement has been complied with and 9 points affidavits are filed therewith. The said judgment relied on the principles laid down by Hon'ble Apex Court in ***Noble Kumar*** for allowing the Writ Petition of secured creditor and held thus:

> *"This petition filed under Article 226 of the Constitution of India takes exception to the order dated 10.01.2023 whereby the learned Additional Collector, Narmadapuram directed the secured creditor/ petitioner to file advertisement under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Securitisation Act').*
>
> *The admitted facts between the parties are that petitioner Bank preferred an application under Section 14 of the Securitisation Act before the said authority. Learned counsel for the petitioner submits that petitioner complied with the necessary formalities and filed 9 points affidavit. In addition, the order sheet dated 03.02.2022 shows that the petitioner has filed relevant judgment to show that as per the judgment of Supreme Court in Standard Chartered Bank vs. V. Noble Kumar and others reported in (2013) 9 SCC 620, it is not necessary for the Bank to file the advertisement under Section 13(4) of the Securitisation Act before the learned Additional District Magistrate to enable him to exercise the power under Section 14 of the Securitisation Act. Learned Additional Collector has failed to examine the same.*
>
> *Shri Agrawal, learned Government Advocate for the State did not dispute the principles laid down by Supreme Court in Nobel Kumar and fairly submits that it is independently open to the learned Additional Collector to proceed under Section 14 of the Securitisation Act but he is entitled to satisfy himself about the compliance of Section 13 (2) of the Securitisation Act.*
>
> *Faced with this Shri Upadhyay, learned counsel for the petitioner submits that the impugned order itself shows that Section 13 (2) of the Securitisation Act requirement has been complied with.*
>
> *Considering the aforesaid, the impugned order dated 10.01.2023 is set aside. Learned Additional Collector/ learned Additional District Magistrate is directed to proceed in accordance with law in exercise of power under Section 14 of the Securitisation Act.*
>
> *It is made clear that non-filing of advertisement under Section 13(4) of the Securitisation Act will not be an impediment for the petitioner.*
>
> *Petition is allowed.*

> *Learned District Magistrate shall proceed and decide the application under Section 14 of the Securitisation Act within 45 days from the date of production of certified copy of this order."*

9.4 The final contention urged on the side of the applicants was as regards non service of either the notice of S.14 petition or the resulting order on the applicants rendering the impugned order so obtained from the competent court to be illegal and invalid. The law is no more *res integra* that borrowers are not to be heard or noticed in S.14 proceedings as the concerned Court be it DM, CMM or CJM is not required to hear and decide the disputes *inter se* the secured creditor, borrowers and third parties it being expected to render assistance to Secured creditor for taking possession of secured asset or documents thereto on its subjective satisfaction as to affirmations made in the affidavit without going into any niceties of law. This has been the law declared in *Noble Kumar* stated supra and one elicited in the following judgments:

(i) The Full Bench of Hon'ble Supreme Court of India in its judgment rendered in "***Balkrishna Rama Tarle Dead thr. L.Rs. and Ors. vs. Phoenix ARC Private Limited and Ors."*** reported in MANU/SC/1244/2022, held thus :

> *"9. Thus, in view of the scheme of the SARFAESI Act, more particularly, Section 14 of the SARFAESI Act and the nature of the powers to be exercised by learned Chief Metropolitan Magistrate/learned District Magistrate, the High Court in the impugned judgment and order has rightly observed and held that the power vested in the learned Chief Metropolitan Magistrate/learned District Magistrate is not by way of persona designata.*
>
> *Thus, the powers exercisable by CMM/DM Under Section 14 of the SARFAESI Act are ministerial step and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. In that view of the matter once all the requirements Under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the*

possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/or with the help of an advocate appointed as Advocate Commissioner. At that stage, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets and the aggrieved party to be relegated to raise objections in the proceedings Under Section 17 of the SARFAESI Act, before Debts Recovery Tribunal. Under the circumstances in the present case no error has been committed by the High Court in setting aside the order dated 27.08.2021 passed by the designated authority keeping the application pending till the secured creditor initiates the legal proceedings for eviction of the tenant cannot get the possession in an application Under Section 14 of the SARFAESI Act. The High Court has rightly directed the designated authority to proceed further with the application Under Section 14 of the SARFAESI Act, and to dispose of the same in accordance with the provisions of Section 14 of the SARFAESI Act."

(ii) The Hon'ble High Court of Madras in its judgment dated 05.6.2026 rendered in the case titled ***"Vijayanad Srinivasan vs. Punjab National Bank"*** in W.P.No.16489/2026 reported in indian Kanoon - http://indiankanoon.org/doc/76318858/held thus:

"10. In view of the foregoing discussion and the settled legal position as enunciated by the Supreme Court, we issue the following directions applicable to all Chief Metropolitan Magistrate/Judicial Magistrates/District Magistrates exercising powers under Section 14 of the SARFAESI Act across the State of Tamil Nadu:

> *(i) Upon receipt of a written application under Section 14(1) of the SARFAESI Act from a secured creditor, the CMM/CJM/DM (hereinafter collectively referred to as "the Designated Authority") shall immediately register the application. No application under Section 14 of the SARFAESI Act shall be listed for arguments on registration. The Designated Authority is not required to conduct any pre-registration hearing whatsoever.*
>
> *(ii) Upon registration, the Designated Authority shall verify only the following two aspects:*
>
> *(a) whether the secured assets fall within its territorial jurisdiction;*
>
> *(b) whether a notice under Section 13(2) of the SARFAESI Act has been duly served upon the borrower;*
>
> *(c) whether the application is accompanied by the affidavit as mandated under the first proviso to Section 14(1) of the SARFAESI Act,*

duly affirmed by the authorized officer of the secured creditor, affirming compliance of clauses (i) to (ix) thereof; and

(d) The Designated Authority shall also ascertain whether the case of the secured creditor falls under any of the exceptions provided under Section 31 of the SARFAESI Act.

(iii) The nature of the inquiry under Section 14 of the SARFAESI Act is ministerial and not adjudicatory. The Designated Authority is not required and is indeed prohibited from adjudicating upon any dispute between the secured creditor and the borrower, or between the secured creditor and any third party (including any person in possession of the secured assets), in an application under Section 14 of the SARFAESI Act. All such disputed questions of law or fact are exclusively within the jurisdiction of the Debts Recovery Tribunal under Section 17 of the SARFAESI Act.

(iv) ***The Designated Authority is not required to issue notice to the borrower, mortgagor, guarantor, or any third party before passing an order under Section 14(1) of the SARFAESI Act. The power under Section 14(2) is an enabling provision and the Designated Authority may, if necessary, use force for securing compliance****."*

9.5 For the foregoing reasons Point Nos. 3 & 4 are answered in the negative and against the applicants.

10. The Tribunal cannot lose sight of the fact that the applicants owe an undisputed sum of Rs.12,58,75,572.65 (Rupees Twelve Crores Fifty Eight Lakhs Seventy Five Thousand Five Hundred Seventy Two and Paise Sixty Five Only) as on 14.02.2025 to the respondent company and has been impunging the symbolic possession notice and S.14 proceedings on hyper-technicalities for frustrating and forestalling realization of huge secured debts. Therefore, before parting with this case, the Tribunal respectfully reminisces yet another judgment of the Hon'ble Apex Court rendered in the case titled "***Indian Bank v. Blue Jaggers Estates Limited and others"*** reported in MANU/SC/0570/2010 : (2010) 8 SCC 129, wherein it is held as follows:-

"25. The Court cannot lose sight of the fact that the bank is a trustee of public funds. It cannot compromise the public interest for benefiting private individuals. Those who take loan and avail financial facilities from the bank are duty-bound to

repay the amount strictly in accordance with the terms of the contract. Any lapse in such matters has to be viewed seriously and the bank is not only entitled but duty-bound to recover the amount by adopting all legally permissible methods. Parliament enacted the Act because it was found that legal mechanism available till then was wholly insufficient for recovery of the outstanding dues of banks and financial institutions."

11. The Tribunal having definitively found and held supra as to there being no illegality on the part of respondent in so far as the impugned SARFAESIA measures are concerned, holds both the securitisation applications to be clearly unsustainable and proceeds to dismiss the same accordingly.

12. The 2nd respondent in the S.A.No.370/2023 being the Ld. Chief Judicial Magistrate, Erode is exonerated in view of sub-section (3) of Section 14 of SARFAESI Act and the law declared by the Hon'ble Apex Court in ***"Harshad Govardhan Sondagar Vs. International Assets Reconstruction Company Ltd. and Ors."*** reported in MANU/SC/0377/2014.

13. Ergo, both the SA Nos. 370/2023 and 620/2024 stand dismissed. Consequently all connected IAs stand closed. No order as to costs.

14. Communicate copy of this order to both parties as provided in sub-rule (2) of R.11 of the Security Interest (Enforcement) Rules, 2002 r/w R.16 of the Debts Recovery Tribunal (Procedure) Rules, 1993 as amended from time to time.

[Dictated to my PS directly on the computer, corrected and pronounced by me in the open Tribunal on this the 13th day of July, 2026].

Sd/-

[N SOMASUNDAAR]
PRESIDING OFFICER

A P P E N D I X

Applicants' common Documents in both SAs

S.No.	Date	Description /Particulars of documents
1.	28.4.2017	Sanction letters issued by the Respondent to the Applicants for Housing loans of Rs.6.10 crores and Rs.3.90 crores.
2.	23.8.2019	Notice under Section 13(2) of SARFAESI Act, issued by the Respondent to the Applicants
3.	20.01.2020	Notice under Section 13(2) of SARFAESI Act, issued by the Respondent to the Applicants
4.	11.10.2022	Notice under S.13(2) of SARFAESI Act issued by Respondent to Applicants
5.	17.12.2022	Possession Notice under Section 13(4) of SARFAESI Act issued by Respondent to Applicants
6.	18.01.2023	Possession Notice under Section 13(4) of SARFAESI Act issued by Respondent to Applicants
7.	30.01.2023	Letter sent by 1st Applicant to Respondent
8.	04.12.1990	Parent Document for the property described as Item No.1 in the SA schedule
9.	23.7.2003	Parent Document for the property described as Item No.2 in the SA schedule
10.	13.4.2023	Order passed by Ld. Chief Judicial Magistrate Erode in C.M.P. No.4801 of 2023
11.	17.12.2022	Possession Notice under Section 13(4) of SARFAESI Act sent to 1st Applicant along with cover and postal receipt dated 19.12.2022 (Original)
12.	17.12.2022	Possession Notice under Section 13(4) of SARFAESI Act sent to 3rd Applicant along with cover and postal receipt dated 19.12.2022 (Original)
13.	17.12.2022	Possession Notice under Section 13(4) of SARFAESI Act sent to 5th Applicant along with cover and postal receipt dated 19.12.2022 (Original)
14.	17.12.2022	Possession Notice under Section 13(4) of SARFAESI Act sent to Applicants along with cover and postal receipt dated 04.01.2023 (Original)
15.	23.8.2019	Demand Notice sent to 4th Applicant along cover and postal receipt dated 26.08.2019 (Original)
16	23.8.2019	Demand Notice sent to 3rd Applicant along cover and postal receipt dated 26.08.2019 (Original)
17	23.8.2019	Demand Notice sent to 4th Applicant along cover and RLAD dated 24.08.2019 (Original)
18	23.8.2019	Demand Notice sent to 3rd Applicant along cover and RLAD dated 24.08.2019 (Original)
19	23.8.2019	Demand Notice sent to 3rd Applicant along cover and RLAD dated 24.08.2019 (Original)
20	23.08.2019	Demand Notice sent to 4th Applicant along cover and postal receipt dated 26.08.2019 (Original)

21	23.8.2019	Demand Notice sent to 3rd Applicant along cover and RLAD dated 24.08.2019 (Original)
22	10.10.2022	Demand Notice sent to 1st Applicant along with cover and postal receipt dated 20.10.2022 (Original)
23	10.10.2022	Demand Notice sent to 1st Applicant along with cover and postal receipt dated 20.10.2022 (Original)
24	10.10.2022	Demand Notice sent to 4th Applicant along with cover and postal receipt dated 20.10.2022 (Original)
25	10.10.2022	Demand Notice sent to 5th Applicant along with cover and postal receipt dated 20.10.2022 (Original)
26	10.10.2022	Demand Notice sent to 4th Applicant along with cover and postal receipt dated 20.10.2022 (Original)
27	18.01.2023	Possession Notice send to 2nd Applicant along with cover and Postal Receipt dated 19.01.2023 vide Memo dated 07.04.2026.
28	18.01.2023	Possession Notice send to 1st Applicant along with cover and Postal Receipt dated 19.01.2023 vide Memo dated 07.04.2026.
29	18.01.2023	Possession Notice send to 3rd Applicant along with cover and Postal Receipt dated 19.01.2023 vide Memo dated 07.04.2026.
30	18.01.2023	Possession Notice send to 1st Applicant along with cover and Postal Receipt dated 19.01.2023 vide Memo dated 07.04.2026.
31	18.01.2023	Possession Notice send to 4th Applicant along with cover and Postal Receipt dated 19.01.2023 vide Memo dated 07.04.2026.
32	18.01.2023	Possession Notice send to 5th Applicant along with cover and Postal Receipt dated 19.01.2023 vide Memo dated 07.04.2026.

Respondent Company's common Documents in both the SAs

S.No.	Date	Description /Particulars of documents
1.	08.08.2023	Order passed by the Hon'ble High Court of Judicature in W.P.No.23173 of 2023 and W.M.P. Nos. 22721 of 22722 and 22723 of 2023
2.	23.08.2023	Order passed by the Hon'ble High Court of Judicature in W.P. No.23173 of 2023
3.	11.10.2022	Attested copy of Demand Notice
4.	22.10.2022	Attested copy of Acknowledgment cards
5.	18.01.2023	Attested copy of Possession Notice
6.	21.01.2023	Attested copy of Acknowledgment cards
7.	23.01.2023	Attested copy of the paper publication in 'Business Standard'
8.	23.01.2023	Attest copy of paper publication in 'Dinakaran'.
9.	13.04.2023	Attested copy of order passed in CMP. No.4801 of 2023
10.	07.06.2023	Attested copy of the conditional order passed by this Hon'ble Tribunal in I.A.No.1957 of 2023 in S.A. No.370 of 2023

11.	23.08.2023	Attested copy of the conditional order passed by the Hon'ble High Court of Judicature at Madras in W.M.P.No.22717 of 2023 in W.P.No.23173 of 2023.
12.	23.07.2003	Attested copy of the Final Decree passed by the Hon'ble 1st Additional District Munsiff of Erode in I.A.No.661 of 2023 in O.S.No.252 of 2003.
13.	28.04.2017	Attested copy of Form – A1 – Declaration and Undertaking
14.	31.12.2020	Attested copy of the Sanction Letter
15.	----	Attested copy of the Partnership Firm Declaration
16.	22.5.2026	Memo - Affixture of Possession Notice dated 18.01.2023 (4 photographs)
17.	28.04.2017	Sanction Letter Loan A/c. No.NHL/COI/0317/365945
18.	31.12.2020	Restructure approval Loan A/C.No. NHL/COI/0317/365945
19.	28.04.2017	Sanction Letter Loan A/c. No. NHL/COI/0317/366053
20.	31.12.2020	Restructure approval Loan A/c. No. NHL/COI/0317/366053
21.	27.06.2017	Memorandum of Deposit of Title Deeds Doc.No.2980/2019
22.	23.04.2017	Attested copy of Undertaking
23.	29.04.2017	Attested copy of Power of Attorney
24.	29.04.2017	Attested copy of Disbursement Kit
25.	07.05.2025	Online copy of CERSAI report for the property bearing D.No.64, Thiru. Ve. Ka. Street, Erode
26.	07.05.2025	Online copy of CERSAI report for property bearing D.No.47, Pappathikadu, 2nd Street, Erode.
27	04.04.2017	Attested copy of Valuation Report 1st Page
28	03.03.2025	Photos affixing of Possession Notice
29	03.03.2025	Statement of Accounts
30	10.09.2022	Attested copy of the abstract of accounts ledger of loan account Nos. NHL/COI/0317/365945 and NHL/COI/0317/366053
31	02.05.2012	Attested copy of extract of the Board Resolution of the Respondent
32	03.02.2021	Attested copy of the Authorisation Letter issued to Mr. R. Naveen
33	03.08.2022	Attested copy of the Authorisation Letter issued to Mr. R. Boopathi
34	22.08.2022	Attested copy of the Authorisation Letter issued to Mr. R. Kumaresan
35	18.01.2023	Possession Notice sent to 2nd applicant along with cover and postal receipt dated 19.01.2023
36	17.12.2022	Attested copy of office copy of Possession Notice
37	19.12.2002	Attested copy of the Postal Receipts
38	20.12.2022	Attested copy of Acknowledgement cards

Sd/-
PRESIDING OFFICER

IN THE DEBTS RECOVERY
TRIBUNAL, COIMBATORE

PRESENT: SRI N SOMASUNDAAR, B.A.; B.L.
PRESIDING OFFICER

Dated the 13th July, 2026

SA No.370 of 2023
AND
SA No.620 of 2024

S.A.No.370 of 2023

M/s.Sree Selvaganapathy Agro Industries
Represented by Managing Partner Nallasamy K
No.107, Saminathapuram Modakurichi,
Muthur Main Road, Erode – 638 004.
And 4 Ors. ...... Applicants

And

M/s. PNB Housing Finance Ltd.
Represented by its Authorised Officer
Branch Office at:
No.1112, Raja Plaza, 2nd Floor,
Avinashi Road (Near Lakshmi Mills),
Coimbatore – 641 037.

& another. .... Respondents

S.A.No.620 of 2024

Sree Selvaganapathy Agro Industries
Represented by Managing Partner Nallasamy K
No.107, Saminathapuram Modakurichi,
Muthur Main Road, Erode – 638 004.
And 4 Ors. .... Applicants

And

M/s. PNB Housing Finance Ltd.
Represented by its Authorised Officer
Branch Office at:
No.1112, Raja Plaza, 2nd Floor,
Avinashi Road (Near Lakshmi Mills),
Coimbatore – 641 037. .... Respondent

FINAL ORDER