IN THE DEBTS RECOVERY TRIBUNAL-II, BANGALORE

Dated this 27th Day of August, 2026

PRESENT: SHRI T. RAJESH
Hon'ble Presiding Officer

S.A. No. 314 of 2025

BETWEEN:
Sri. Boregowda
S/o. Sri. Javaregowda
Aged about 48 years
Residing at No.5, E Block,
Vijayanagar 3rd stage,
Mysore - 570017 **. . . Applicant**

AND:
1. The Authorised Officer
City Union Bank Limited
Credit Recovery Management Department
No.24-B, Gandhi Nagar, Kumbakonam-612001

2. The Branch Manager
City Union Bank of Ltd.,
No.126, 33rd Cross,
11th main road, 4th Block,
Jayanagar, Bangalore

3. Sri. Gangadhar A Vasanth Kumar
S/o. Sri. A Vasanth Kumar
Age: Major
Residing at No.36, 5th Main,
J P Nagar 8th Phase
M S Ramaiah City, Bangalore-560078 **. . . Respondents**

Ld. Counsels on record / appeared :-

Counsel for Applicant :- Sri. V.B.Ravi Shankar
Counsel for Respondent No.1&2 :- Sri. Vignesh Shetty
Counsel for the Respondent No.3 :- Sri. Rajan Kelkar

: - O R D E R - :

1. The applicant is impugning the measures taken by the respondent bank with a prayer to quash the sale certificate produced at Annexure -A1 in the SA, issued in the pursuant to measures taken by the respondent as per the provisions of SARFAESI Act.

2. The applicant case can be summarized as follows:

The applicant in order to purchase the schedule property and putting up a construction had availed a housing loan of Rs.3.00 Crores which was repayable in 180 equated monthly installments of Rs.3,60,050.42. The creation of mortgage by deposit of title documents is also admitted by the applicant as according to the applicant the sale deed executed in favour of the applicant has been deposited for the purpose of the mortgage. The applicant is also admitting the sanctioning of the additional facility for Rs.20.00 lakhs on 27.03.2020 and additional amounts of Rs.19.00 lakhs and Rs.17.50 lakhs on 27.09.2019 and 28.06.2019 respectively. The applicant also admits the extension of the mortgage in lieu of the security for the extended facilities. The applicant further contends that, after availing the loan the applicant has constructed the apartment building over the A schedule property and had entered into an agreement to sell the flats to prospective buyers. It is further stated that, since the prospective buyers fail to honor the committed purchases, the applicant had sought for extension of time for repayment, which was not agreed by the 1st respondent bank. in this regard, it is the case of the applicant that, the

applicant has also sought for restructuring and re schedulement of loan, which according to the applicant he is entitled by virtue of the circular of RBI/2021-22/31 DOR.STR.REC.11/21.04.048/2021-22 dated 05.05.2021. hence according to the applicant without extending the re-schedulement facility which the applicant was otherwise legally entitled too, the respondent had initiated the measures by issuing a demand notice dated 08.04.2021.

3. It is also admitted that, the respondent subsequently taken possession of A & B schedule properties. Even though, the applicant admits that, the issuance of demand notice dated 08.04.2021, it is contented that the same has not been served on them and on the base of the above it is, the applicant's case that the issuance of possession notice and subsequent actions are vitiated. The applicant submits that, the possession notice came to be challenged by filing SA.No.250/2021 which came to be disposed of. The applicant further admits that, the sale notice dated 01.12.2021 happened to be issued by the respondent which came to be challenged before the Hon'ble High Court. The applicant further contends that the respondent had not acceded to the request of the applicant to provide the statement of accounts and without providing the same, the respondent had entered into a memorandum of understanding to sell the flats and knowing that, the applicant had called upon the 1st respondent to settle the claim. Even after coming to know about the memorandum of understanding the applicant again requested the respondent to provide the statement of

accounts, which was not provided by the respondent. According to the applicant without taking note of the request of the applicant to provide the statement of account a sale certificate happened to be issued in favour of the 3rd respondent for a meager amount.

4. In the grounds to the SA, the applicant is reiterating the alleged noncompliance of mandatory provisions by the respondent and also that, the measures are void and *ab initio*. The contention of the applicant as to the alleged illegal classification of NPA is also reiterated in the grounds. The applicant further reiterates the contention as set forth in the statement of facts that, there is no service of demand notice and possession notice. In respect of the sale also the applicant is contending that no proper notice has been served on the applicant and no valuation is procured by the Authorised Officer and also that reserve price fixed is too low. The applicant had also alleged the excessive execution as according to the applicant, the entire liability would have been wiped out by selling a portion of the schedule property. The memorandum of understanding arrived at between the respondents, the bank and the 3rd respondent is also assailed stating that the same is entered into without issuing a proper sale notice.

5. The applicant is also contending that, even as one of the flat could fetch Rs.70.00 lakhs, and these sale of the entire property is conducted for Rs.5,00,10,000/-. On the above premises, the sale certificated dated

16.09.2025 in respect of the property is under challenged. Along with the SA, the applicant has produced the following documents:

i. Copy of Sale Certificate dated 16.08.2025
ii. Copy of Sanction letter
iii. Copy Sale Deed
iv. Copy of Memorandum of Deposit of Title Deeds
v. Copy of Building Plan
vi. Copy of Sale Notice
vii. Copy of Memorandum of Understanding
viii. Copy of Notice

6. The respondent Nos.1 and 2 have filed their objections contending that the application is not maintainable and as there is no bonafides on the part of the applicant as the applicant had created third party interest over the mortgaged property and had alienated the property without intimating the bank. It is also pointed out the applicant in collusion with a third party had filed a suit as OS.No.194/2022 to delay the recovery proceedings. Hence, according to the respondents the applicant had approached this Tribunal with unclean hands. The respondents contend that, applicant along with one Mrs. G L Kumari who stood as a borrower had availed credit facilities of Rs.3,00,00,000/-; Rs.17,50,000/-; Rs.19,00,000; and Rs.20,00,000/- respectively from the respondent bank, subjecting the properties as security by way of mortgage by deposit of title deeds. Even as the borrower failed to make the repayment, the demand notice dated 08.04.2021 was issued, and as the applicant failed to liquidate the liability,

the possession notice dated 05.11.2021 was been issued, published and affixed as required under the statute. The said possession notice came to be challenged in SA.No.250/2021 and the same stood dismissed for default on 30.06.2023. Thereafter the Ld. Magistrate was approached by filing an application under S.14 of the act and by virtue of the orders of the Magistrate the actual possession of the property was taken. The bank thereafter had issued the sale notice on 06.09.2021, 01.12.2021, 31.01.2022, 02.08.2022, 10.11.2022 and 20.01.2023. The sale pursuant to the above sale notice does not materialize for want of bidders. It is also stated by the respondent that, thereafter a proposal by letter dated 29.01.2025 has been received from the 3rd respondent which the bank stood accepted vide letter dated 06.02.2025 for the sale of the schedule property for Rs.5,00,10,000/-. Subsequently, the respondent bank had issued a notice to the applicant stating that the respondent is conducting the sale of the property through a private sale. The said letter is issued by the respondent were returned as unserved. Since the letters intimating the sale of the property through private treaty remains unserved a memorandum of understanding had arrived at on 07.03.2025 which stood amended on 14.08.2025 pursuant to the above memorandum of understanding the sale was conducted and sale certificate has been issued. In respect of the contention of the applicant they have issued a reply to the bank on coming to know about the intention of the bank to sell the asset by private treaty, the respondent denies the receipt of any such notice.

Along with the objections, the respondents have produced the following documents:

i. The copy of the Sale Deed dated 25.08.2021

ii. the copy of the Memorandum of Deposit of Title deed dated 01.12.2016

iii. demand notice dated 08.04.2021 under S.13(2) of the act, along with the returned acknowledgment.

iv. copy of the S.13(4) notice dated 05.07.2021, along with the postal receipts, returned acknowledgment cards and photo of the affixture of the symbolic possession.

v. The copy of the published newspapers namely New Indian Express and Udayavani dated 09.07.2021

vi. the copy of the case status

vii. copy of the sale notice dated 06.09.2021, 01.12.2021, 31.01.2022, 02.08.2022, 10.11.2022 and 20.01.2023.

viii. the copy of the letters dated 06.02.2025 issued by the respondent to the respondent No.3

ix. copy of the memorandum of understanding dated 07.03.2025 along with amended memorandum of understanding dated 14.08.2025 and the sale certificate dated 16.08.2025

x. the copy of the statement of accounts.

xi. the copy of valuation report dated 21.10.2024.

7. The respondent No.3 filed his objections inter alia contending that, The Respondent No.3, the bona fide auction purchaser, It is also submitted that the Securitization Appeal is devoid of merit and liable to be dismissed, It is also stated that, the sale in favour of 3rd respondent was validly conducted by private treaty in accordance with Rule 8(8) of the Security Interest (Enforcement) Rules, 2002. The entire sale consideration of Rs.5,00,10,000/- was duly paid to the Respondent Bank and hence registered Sale Certificate dated 16.08.2025 was issued in favour of 3rd respondent. Hence according to the 3rd respondent, in view of Section 13(8) of the SARFAESI Act, the Appellant's right of redemption stood extinguished upon completion of the sale and issuance of the Sale Certificate and delivery of possession. The allegation that the property was sold for a meagre consideration denied as the same is unsupported by any cogent evidence. It is contented that, the sale price of more than Rs.5 Crores representing a fair realization in the circumstances of the recovery proceedings, and the Bank is not bound to sell the secured asset with reference to guidance value. The Respondent No.3 has acted bona fide and complied with all statutory and financial requirements, including payment of Rs.28,00,560/- towards stamp duty, Rs.5,03,000/- towards registration charges and Rs.5,00,100/- towards TDS. It is also stated that, for arranging the purchase consideration personal residential properties at Mysore and Bangalore and were liquidated. It is also stated that, the

Mysore City Corporation has also issued E-Katha (Form-2) in respect of the ten residential units recognizing his ownership and the applicable property taxes have been duly paid. The Appellant, whose account has remained NPA since 25.02.2021, cannot, after conclusion of the sale and transfer of possession, seek to unsettle the rights of a bona fide purchaser through belated and vexatious proceedings or forum shopping. Hence, the interim restraint order dated 13.01.2026 deserves to be vacated/set aside and the Securitization Appeal deserves to be dismissed with exemplary costs.

8. Heard the respective counsels and perused the available records.

9. The following issued arise for consideration:

i. Whether the measures initiated and continued by the respondent Nos.1 and 2 leading to the conduct of the sale and issuance of the sale certificate are legally valid?

ii. Whether any challenge of the sale certificate can be entertained without any challenge as to the conduct of the sale?

Issue No.i:

10. The applicant is not having any dispute as to sanctioning and disbursement of the loan and creation of security interest, in lieu of the security for the said facility. Even though, the contention had been taken regarding denial of the restructuring as sought for by the applicant which the applicant was legally entitled to is not extended by the applicant, this

Tribunal is of the view that the same cannot be some into at present as the applicant had missed the opportunity to challenge the same. The so-called entitlement and the circular all are resorted only in present proceedings. Having remained silent all through this period. The applicant cannot be heard to content that, the account should have been re-scheduled and restructured and failure of the restructure will render the entire proceedings vitiated.

11. Even though, the applicant is disputing the legality of issuance of demand notice and possession notice, this Tribunal is not going to entertain the said challenge on the simple reason that, the applicant had already adverted to challenge the measures leading to the issuance of possession notice by filing SA.No.250/2021 which came to be dismissed for the reason non prosecution. Had the applicant was due diligent enough, the applicant would have prosecuted the above SA. In lieu of the mandate of the S.17 that every action of the secured creditor to be challenged within 45 days, this Tribunal is not in a position to entertain as a challenge to the proceedings leading to the issuance of possession notice as the claim against the said measures are hopelessly barred by limitation.

12. The applicant is challenging the sale certificate stating that, the sale is done through the back of the applicant as no sale notice is published or affixed as mandated under the statute. In respect of which a reference to

the relevant portion leading to the sale is to be looked into Rule 8 and 9 as follows:

Section 8 in The Security Interest (Enforcement) Rules, 2002

8. Sale of immovable secured assets.

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

(2)The possession notice as referred to in sub-rule (1) shall also be published in two leading newspapers, one in vernacular language having sufficient circulation in that locality, by the authorized 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.] [Inserted by Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).]

(3)In the event of possession of immovable property is actually taken by the authorized officer, such property shall be kept in his own custody or in the custody of any person authorized or appointed by him, who shall take as much care of the property in his custody as a owner of ordinary prudence would, under the similar circumstances, take of such property.

(4)The authorized officer shall take steps for preservation and protection of secured assets and insure them, if necessary, till they are sold or otherwise disposed of.

(5)Before effecting sale of the immovable property referred to in sub-rule (1) of rule 9, the authorized officer shall obtain valuation of the property from an approved valuer and in consultation with the secured creditor, fix the reserve price of the property and may sell the whole or any part of such immovable secured asset by any of the following methods:-

(a)by obtaining quotations from the persons dealing with similar secured assets or otherwise interested in buying the such assets; or

(b)by inviting tenders from the public;

(c)[by holding public auction including through e-auction mode; or] [Substituted by Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).]

(d)by private treaty.

(6)the authorized officer shall serve to the borrower a notice of thirty days for sale of the immovable secured assets, under sub-rule (5):[Provided that if the sale of such secured asset is being effected by either inviting tenders from the public or by holding public auction, the secured creditor shall cause a public notice in the Form given in Appendix IV-A to be published in two leading newspapers including one in vernacular language having wide circulation in the locality.] [Substituted by Notification No. G.S.R. 1040(E), dated 17.10.2018 (w.e.f. 20.9.2002).]

(7)[every notice of sale shall be affixed on the conspicuous part of the immovable property and the authorised officer shall upload the detailed terms and conditions of the sale, on the web-site of the secured creditor, which shall include;

(a)the description of the immovable property to be sold, including the details of the encumbrances known to the secured creditor;

(b)the secured debt for recovery of which the property is to be sold;

(c)reserve price of the immovable secured assets below which the property may not be sold;

(d)time and place of public auction or the time after which sale by any other mode shall be completed;

(e)deposit of earnest money as may be stipulated by the secured creditor;

(f)any other terms and conditions, which the authorized officer considers it necessary for a purchaser to know the nature and value of the property.]

(8)Sale by any methods other than public auction or public tender, shall be on such terms as may be settled [between the secured creditors and the proposed purchaser in writing] [Substituted 'between the parties in writing' by

Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).].

Furthermore,

Section 9 in The Security Interest (Enforcement) Rules, 2002

9. Time of sale, issue of sale certificate and delivery of possession, etc.

- [(1) No sale of immovable property under these rules, in first instance shall take place before the expiry of thirty days from the date on which the public notice of sale is published in newspapers as referred to in the proviso to sub-rule (6) of rule 8 or notice of sale has been served to the borrower: Provided further that if sale of immovable property by any one of the methods specified by sub rule (5) of rule 8 fails and sale is required to be conducted again, the authorized officer shall serve, affix and publish notice of sale of not less than fifteen days to the borrower, for any subsequent sale.] [Substituted by Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).]

(2)The sale shall be confirmed in favour of the purchaser who has offered the highest sale price in his bid or tender or quotation or offer to the authorized officer and shall be subject to confirmation by the secured creditor: Provided that no sale under this rule shall be confirmed, if the amount offered by sale price is less than the reserve price, specified under sub-rule (5) of [rule 8] [Substituted by Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).]:Provided further that if the authorized officer fails to obtain a price higher than the reserve price, he may, with the consent of the borrower and the secured creditor effect the sale at such price.

(3)[On every sale of immovable property, the purchaser shall immediately, i.e. on the same day or not later than next working day, as the case may be, pay a deposit of twenty five per cent. of the amount of the sale price, which is inclusive of earnest money deposited, if any, to the authorized officer conducting the sale and in default of such deposit, the property shall be sold again;] [Substituted by Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).]

(4)The balance amount of purchase price payable shall be paid by the purchaser to the authorized officer on or before the fifteenth day of confirmation of sale of the immovable property or such extended period [as may be agreed upon in writing

between the purchaser and the secured creditor, in any case not exceeding three months] [Substituted by Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).].

(5)In default of payment within the period mentioned in sub-rule (4), the deposit shall be forfeited [to the secured creditor] [Inserted by Notification No. G.S.R. 1046 (E), dated 3.11.2016 (w.e.f. 20.9.2002).] and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

(6)On confirmation of sale by the secured creditor and if the terms of payment have been complied with, the authorized officer exercising the power of sale shall issue a certificate of sale of the immovable property in favour of the purchaser in the Form given in Appendix V to these rules.

(7)Where the immovable property sold is subject to any encumbrances, the authorized officer may, if he thinks fit, allow the purchaser to deposit with him the money required to discharge the encumbrances and any interest due thereon together with such additional amount that may be sufficient to meet the contingencies or further cost, expenses and interest as may be determined by him.

(8)On such deposit of money for discharge of the encumbrances, the authorized officer may issue or cause the purchaser to issue notices to the persons interested in or entitled to the money deposited with him and take steps to make the payment accordingly.

(9)The authorized officer shall deliver the property to the purchaser free from encumbrances known to the secured creditor on deposit of money as specified in sub-rule (7) above.

(10)The certificate of sale issued under sub-rule (6) shall specifically mention that whether the purchaser has purchased the immovable secured asset free from any encumbrances known to the secured creditor or not.

13. Going by the Rule 8, it is seen that the mode of sale by private treaty is permissible under Rule 8(5) (d) of the Security Interest (Enforcement) Rules, and also Rule 8(5)(b) permits sale by inviting tenders. The only mandate for conducting the sale under the Rule 8(5)(d) is stipulated under

the Rule 8(6) which says that the Authorised Officer shall serve the borrower a notice of 30 days sale of immovable property. The law mandates which of course is applicable in the case of 1st sale and subsequent sale that 15 days' notice will sufficient. The Proviso to Rule 8(6) makes it clear that, only in case the sale of the secured asset is affected by inviting the tenders or by public auction, the secured creditor needs to publish the sale notice in two daily newspapers. A plain reading of the above proviso makes it clear that, if the sale is conducted through a private treaty no publication of notice is envisaged to be done under the Rules and what is required is only to serve the borrower a notice of 30 or 15 days as the case. In the case in the hand, the respondent had produced the proof of issuance of notice intimating their intention to sell the property through private treaty as notice dated 06.02.2025 caused to be issued intimating their intention to sell the property through private treaty for Rs.5,00,10,000/-. The said notice issued in the address available with the bank had been returned as un served. In absence of any evidence from the side of the applicant that, they have intimated the bank about any change of address, this Tribunal is of the considered opinion that, the issuance of intimation as to the intention to sell the property through private treaty that too clearly mentioning the particulars of the purchaser and also the amount on which the private treaty is entered upon satisfied the mandate of the statute and this Tribunal cannot find any fault on the part respondent in respect of the conduct of sale through private treaty.

14. In view of the above, this Tribunal is of the view that the challenge of the applicant as to the conduct of the respondent as the sale of the property through a private treaty is to be discarded.

Issue No.ii:

15. The case in hand the applicant is challenging the sale certificate issued by the respondent. In answering the issue as to whether the sale certificate can be challenged, a reference to section 17 and 13(4) is required, the S.17 of the act reads as:

> ***Section 17 in The Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002***
>
> ***17. [Application against measures to recover secured debts.] [Substituted 'Right to appeal' by Act No. 44 of 2016.]***
>
> *(1)Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorised officer under this Chapter, [may make an application along with such fee, as may be prescribed,] [Substituted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 10, for "may prefer an appeal" (w.r.e.f. 21.6.2002).] to the Debts Recovery Tribunal having jurisdiction in the matter within forty-five days from the date on which such measures had been taken:[Provided that different fees may be prescribed for making the application by the borrower and the person other than the*

borrower.] [Inserted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 10 (w.r.e.f. 21.6.2002).][Explanation. For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under this sub-section.] [Inserted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 10 (w.r.e.f. 11.11.2004).]

(1A)[An application under sub-section (1) shall be filed before the Debts Recovery Tribunal within the local limits of whose jurisdiction-

(a)the cause of action, wholly or in part, arises;

(b)where the secured asset is located; or

(c)the branch or any other office of a bank or financial institution is maintaining an account in which debt claimed is outstanding for the time being.]

(2)[The Debts Recovery Tribunal shall consider whether any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor for enforcement of security are in accordance with the provisions of this Act and the rules made thereunder.] [Sub-sections (2) and (3) substituted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 10, (w.e.f. 11-11-2004)]

(3)[If, the Debts Recovery Tribunal, after examining the facts and circumstances of the case and evidence produced by the parties, comes to the conclusion that any of the measures referred to in sub-section (4) of section 13, taken by the secured creditor are not in accordance with the provisions of this Act and the rules made thereunder, and require restoration of the management or restoration of possession, of the secured assets to the borrower or other aggrieved person, it may, by order,-

(a)declare the recourse to any one or more measures referred to in sub-section (4) of section 13 taken by the secured creditor as invalid; and

(b)restore the possession of secured assets or management of secured assets to the borrower or such other aggrieved person, who has made an application under sub-section (1), as the case may be; and

(c)pass such other direction as it may consider appropriate and necessary in relation to any of the recourse taken by the secured creditor under sub-section (4) of section 13.]

(4)If, the Debts Recovery Tribunal declares the recourse taken by a secured creditor under sub-section (4) of section 13, is in accordance with the provisions of this Act and the rules made thereunder, then, notwithstanding anything contained in any other law for the time being in force, the secured creditor shall be entitled to take recourse to one or more of the measures specified under sub-section (4) of section 13 to recover his secured debt.

(4A)[Where-(i)any person, in an application under sub-section (1), claims any tenancy or leasehold rights upon the

secured asset, the Debt Recovery Tribunal, after examining the facts of the case and evidence produced by the parties in relation to such claims shall, for the purposes of enforcement of security interest, have the jurisdiction to examine whether lease or tenancy,-

(a)has expired or stood determined; or

(b)is contrary to section 65A of the Transfer of Property Act, 1882; or

(c)is contrary to terms of mortgage; or

(d)is created after the issuance of notice of default and demand by the Bank under sub-section (2) of section 13 of the Act; and

(ii)the Debt Recovery Tribunal is satisfied that tenancy right or leasehold rights claimed in secured asset falls under the sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) of clause (i), then notwithstanding anything to the contrary contained in any other law for the time being in force, the Debt Recovery Tribunal may pass such order as it deems fit in accordance with the provisions of this Act.]

(5)Any application made under sub-section (1) shall be dealt with by the Debts Recovery Tribunal as expeditiously as possible and disposed of within sixty days from the date of such application: Provided that the Debts Recovery Tribunal may, from time to time, extend the said period for reasons to be recorded in writing, so, however, that the total period of pendency of the application with the Debts Recovery Tribunal, shall not exceed four months from the date of making of such application made under sub-section (1).

(6)If the application is not disposed of by the Debts Recovery Tribunal within the period of four months as specified in sub-section (5), any party to the application may make an application, in such form as may be prescribed, to the Appellate Tribunal for directing the Debts Recovery Tribunal for expeditious disposal of the application pending before the Debts Recovery Tribunal and the Appellate Tribunal may, on such application, make an order for expeditious disposal of the pending application by the Debts Recovery Tribunal.

(7)Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far as may be, dispose of the application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and the rules made thereunder.[Inserted by Act No. 44 of 2016.]

Prior to their substitution, sub-Sections (2) and (3) read as under:-(2) Where an appeal is preferred by a borrower, such appeal shall not be entertained by the Debts Recovery Tribunal unless the borrower has deposited with the Debts Recovery Tribunal seventy-five per cent.of the amount claimed in the notice referred to in sub-section (2) of section 13:Provided that the Debts Recovery Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.(3) Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far as may be, dispose of the appeal in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and rules made thereunder."

[17-A. Making of application to Court of District Judge in certain cases. [Inserted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 11 (w.e.f. 11.11.2004).] - In the case of a borrower residing in the State of Jammu and Kashmir, the application under section 17 shall be made to the Court of District Judge in that State having jurisdiction over the borrower which shall pass an order on such application. Explanation. For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons shall not entitle the person (including borrower) to make an application to the Court of District Judge under this section.] [Substituted by Act No. 44 of 2016.]

16. Going by the mandate of S.17 is clear that, what can be challenged the S.17 is the measures taken by the secured creditor under S.13(4) of the act. In deciding whether the issuance of sale certificate is measures under S.13(4) a reference to S.13(4) is also essential:

Section 13(4) in The Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002

(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: [Substituted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004, Section 8 (30 of 2004), for Cl.(b) (w.e.f. 11.11.2004).]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.

Prior to its substitution, Clause(b) read;(b) take over the management of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale and realise the secured asset;

17. Going by the S.13(4), the procedure culminates at the point of conduct of sale and confirmation of sale. Without challenge as to the

conduct of sale and confirmation of sale, this Tribunal is of the view that the issuance of sale certificate is only a consequential action and hence cannot be challenged separately. These for without any challenge as to the conduct of sale or much less the confirmation of sale. The applicant cannot maintain their challenge as the sale certificate In view of fact, nothing survives in the SA.

17. In view of the discussions as held above,

i. SA.No.314/2025 is dismissed.

ii. All pending IAs stand closed.

iii. The parties to bear their respective costs.

iv. Copy of this order be communicated to the parties concerned.

(Dictated to the Stenographer (PR), after her transcription and necessary corrections, signed and Order passed on this 27th day of August 2026)

Sd/-

(T. RAJESH)
PRESIDING OFFICER