DEBTS RECOVERY TRIBUNAL-III, CHANDIGARH

PRESIDED OVER: SH. MRIDULESH KUMAR SINGH

SECURITIZATION APPLICATION NO.144/2026

Date of Institution: 24.03.2026
Date of Decision: 07.09.2026

1. M/s Jairath Dyeing and Finishing Mills, Kali Sarak, 559/4, Noor Wala Road, Anandpuri Colony, Jalandhar Byepass, Ludhiana through its sole proprietor Mr. Prithvi Raj Jairath S/o Sh. Des Raj Jairath R/o House No.96, Mall Enclave, Ludhiana
2. Sh. Sahil Jairath S/o Sh. Prithvi Raj Jairath, R/o House No.96, Mall Enclave, Ludhiana

---Applicants

Versus

Indian Bank, Stressed Asset Management Branch, 165, Industrial Area-A, Cheema Chowk, Ludhiana through its Authorised Officer

---Respondent

Argued by: Sh. Pankaj Gupta, Advocate for Applicants
Ms. Manjari Joshi, Advocate for Respondent

FINAL ORDER

(1) This Securitization Application was filed under Section 17(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Act' for brevity) to set aside notice dated 29.05.2021 under Section 13(2) of the Act, possession notice dated 26.11.2021, sale notice dated 24.02.2026 and all consequential proceedings arising therefrom.

(2) It was stated in the application that applicant No.1 is a proprietorship concern and Mr. Prithvi Raj Jairath is its sole proprietor; that applicant No.1 was engaged in the business of manufacturing and export of knitted cloth and readymade garments since the year 1987; that the unit of applicant No.1 was registered as a MSME under the provisions of the Micro, Small and

Medium Enterprises Development Act, 2006; that to run its business, applicant No.1 has been granted credit facilities by the erstwhile Allahabad Bank, which has merged with Indian Bank w.e.f. 01.04.2020; that on 28.01.2011, respondent has sanctioned cash credit limit of Rs.07 Crores to the applicant No.1 under the MSME category; that to secure the loan amount granted by the bank, applicant No.1 stated to have mortgaged three immovable properties in addition to the hypothecation of the stocks; that vide sanction letter dated 31.03.2014, the bank renewed the cash credit limit facility of Rs.07 crores; that due to COVID-19 Pandemic, the business and economy were adversely affected throughout the world; that due to unforeseen circumstances beyond the control of applicant No.1, it suffered huge losses in business and could not strictly adhere to the repayment schedule of the bank; that applicants were shocked to receive the notice dated 29.05.2021 issued by the Authorised Officer of the bank under Section 13(2) of the Act; that as per this notice, the bank has classified the loan account of applicants as NPA on 27.12.2020 and called upon the applicants to deposit the outstanding dues within a period of 60 days, failing which the bank will take further action under the provisions of the Act; that classification of loan account as NPA on 27.12.2020 is incorrect and illegal, because as till this date, applicants had been depositing reasonable amount in the loan account from time to time; that as per the circular dated 17.03.2016 issued by RBI for the revival and rehabilitation of MSME units, the loan account of borrower under the MSME category should first be referred to a Designated Committee for its revival; that notice dated 29.05.2021 under Section 13(2) of the Act has also been issued to one Sh. Sardar Singh, who has been died on 01.08.2019 i.e., much before the issuance of the said notice; that respondent has not

served the said notice to the legal heirs of Sh. Sardar Singh; that on receipt of notice under Section 13(2) of the Act, applicant No.1 filed detailed objections under Section 13(3-A) of the Act dated 27.07.2021; that vide cryptic reply dated 07.08.2021, the Authorised Officer of the bank informed the applicants that the objections raised by it have been rejected; that thereafter, vide possession notice dated 26.11.2021, bank took physical possession of all the three immovable properties; that thereafter, vide first sale notice dated 18.02.2022 bank put the other two secured assets to sale, however, the property in question was not put to sale and in pursuance to that sale notice, bank received the bid for one of the secured assets bearing Plot No.22 measuring 1350 sq. yards and the sale certificate has been issued to the purchasers of this secured asset; that thereafter, vide second sale notice dated 26.07.2022, bank again put another secured asset i.e., property measuring 2428 sq. yards to sale; that however, the property in question was again not put to sale; that no bid was received by the bank for the property measuring 2428 sq. yards for the second time; that vide third sale notice dated 23.08.2022, bank once again put the same property on sale and in pursuance to sale notice dated 23.08.2022, bank received bid for the property and the bank has issued the sale certificate to the auction purchaser; that applicant No.1 challenged the sale of the property before the Hon'ble High Court of Punjab and Haryana by filing CWP No.20567/2022 and Hon'ble High Court, after hearing the counsel for parties, stayed all coercive actions against the applicant or its secured assets until further orders vide order dated 15.09.2022; that applicant No.1 again approached Hon'ble High Court by filing another CWP No.25765/2022 to challenge the sale of the property measuring 1350 sq. yards; that after hearing the counsel for the applicant and bank

at some length, the Hon'ble High Court vide order dated 14.11.2022 directed the auction purchaser to maintain status quo with regard to the secured asset in all respects; that thereafter, vide letter dated 24.12.2020, the bank called upon the applicants to provide certain documents for renewal of the credit facilities; that vide judgment dated 18.12.2023, the Hon'ble High Court had dismissed the aforesaid two Writ Petitions i.e., CWP No.20567/2022 and CWP No.25765/2022 along with bunch of connected petitions, only on the ground that the borrowers can raise the issue regarding non-compliance with RBI circular date 17.03.2016 for the MSME sector by filing the SA before this Hon'ble Tribunal; that the Hon'ble High Court further held that the interim order granted by it shall continue for a period of 20 working days from the date of receipt of the certified copy of the judgment; that aggrieved by the aforesaid judgment passed by Hon'ble High Court, applicant No.1 approached Hon'ble Supreme Court of India by filing SLP Nos. 7139/2024 and 7161/2024; that the said SLPs have been dismissed by Hon'ble Supreme Court vide order dated 22.03.2024, however, Hon'ble Supreme Court has extended the time for approaching this Tribunal by a period of 15 days from 22.03.2024; that in pursuance to the liberty granted by Hon'ble Supreme Court, applicant No.1 has challenged the sale of the secured asset measuring 1350 sq. yards and secured asset measuring 2428 sq. yards before this Tribunal by filing SA No.151/2024 & SA No.152/2024 respectively; that the aforesaid SAs filed by the applicant No.1 have been dismissed by this Tribunal solely on the ground of limitation; that in the SA No.152/2024, applicant No.1 has filed MA No.161/2025 for recalling the order of dismissal of SA and notice has been issued in the aforesaid SA, which is pending before this Tribunal; that as regards, SA No.151/2024 applicant No.1 is in the

process of taking appropriate legal remedies; that after a period of more than 04 years from the date of issuance of the first sale notice qua the other two secured assets on 18.02.2022, the bank has now issued the impugned sale notice dated 24.02.2026, whereby the property in question has been put to sale; that as per the impugned sale notice, property in question will be sold by way of e-auction on 07.04.2026; that the reserve price of the property in question has been fixed as Rs.151.25 Lacs; that the description of the property in question in the impugned sale notice dated 24.02.2026 is totally different from its description in the sanction letter dated 31.03.2014; that respondent has not obtained the correct valuation before putting the property in question to sale vide the sale notice dated 24.02.2026; that respondent has not affixed the copy of sale notice upon the property in question; that respondent has not uploaded the terms and conditions of the sale on the website; that respondent has not published the sale notice in two leading newspapers having wide circulation in the locality in accordance with law; that respondent has not registered the charge of the bank qua the property in question with the correct description in the record of the CERSAI; that respondent has not issued any redemption notice to the applicants before putting the property in question to sale vide the impugned sale notice dated 24.02.2026; that impugned sale notice dated 24.02.2026 and the entire action of the bank is in violation of the mandatory provisions of the Act and Security Interest (Enforcement) Rules, 2002 (hereinafter referred to as 'Rules' for brevity). Therefore, it was prayed that the present SA may kindly be allowed.

(3) Reply filed by respondent.

(4) It was stated in the reply that the present SA, while ostensibly challenging the sale notice dated 24.02.2026 issued qua one of the properties is in essence a surreptitious attempt to re-agitate

the challenges to the declaration of the account as NPA, the demand notice dated 29.05.2021 and possession notice dated 26.11.2021; that these very actions were the subject matter of SA No.151/2024 & SA No.152/2024, which were unequivocally dismissed by this Tribunal on the ground of limitation; that applicants ought not to be allowed a third chance, in the garb of challenging the sale notice dated 24.02.2026 to challenge the demand and possession notices, having failed twice earlier to obtain any relief from this Tribunal qua the said notices; that applicants cannot be permitted to indirectly challenge actions that have already been directly challenged and dismissed, merely by introducing a subsequent event like a sale notice; that present SA is barred by principles of *res-judicata*, constructive *res-judicata* and issue of estoppel in as much as the very same issues raised in this application were the subject matter of CWP No.20567/2022 & CWP No.25765/2022 filed before Hon'ble High Court of Punjab and Haryana, which were dismissed vide judgment dated 18.12.2023; that the SLP No.7139/2024 & SLP No.7161/2024 filed against the said judgments before Hon'ble Supreme Court of India were also dismissed vide order dated 22.03.2024; that present SA is also barred by the principles of constructive *res-judicata* on account of prior proceedings before this very Tribunal; that applicants are chronic defaulters, who have failed to adhere to the financial discipline of the loan agreements executed with the respondent; that an alarming amount of Rs.6,18,49,409/- is outstanding against the applicants, inclusive of interest till 03.04.2026; that applicants have not made any payment towards the outstanding dues since 18.02.2021, clearly establishing their persistent default; that applicants have suppressed material facts from this Tribunal and have not approached this Tribunal with clean hands; that present SA has

been filed with the *mala fide* intention of delaying and frustrating legitimate recovery proceedings initiated by respondent; that no equitable relief can be granted to a party guilty of suppression of material facts; that applicants had failed to substantiate its claim with regard to its registration as MSME by annexing Udhyam Registration Certificate; that respondent does not dispute the global economic impact of the COVID-19 Pandemic, the applicants averment that it suffered huge losses is a bald and unsubstantiated statement as the applicant's loan account was irregular even prior to the onset of the pandemic in March 2020; that the default by the applicants is chronic and systemic and the pandemic is now being conveniently used as a pretext to justify a pre-existing failure to adhere to financial discipline and contractual obligations; that the moratorium provided under the RBI Circulars was a temporary deferment of installment payments and not a waiver of the liability to pay the installments or the interest accrued thereon; that the liability to pay the deferred installments along with the accrued interest remained intact; that applicants being a chronic defaulters, were well aware of the persistent defaults in the loan account and the impending legal consequences; that loan account of the applicants was duly marked/classified as NPA on 31.03.2021; that however, the said classification was made w.e.f. 27.12.2020; that this procedure was in strict and absolute compliance with the Master Circulars and Prudential Norms on Income Recognition, Asset Classification and Provisioning (IARC Norms) issued by RBI, which are mandatory and binding upon the respondent; that distinction between the 'NPA Date' (the date of default) and the 'NPA Marking Date' (the date of entry in the system) is a standard and recognized banking practice governed by these regulatory guidelines; that applicants were provided with numerous opportunities to regularize the

account prior to the issuance of the notice under Section 13(2) of the Act by personally visiting the applicants as well as vide written communications dated 18.11.2020 & 03.12.2020 (Annexure R-5) but the applicants willfully failed and neglected to do so; that loan account has been declared as NPA on 31.03.2021 w.e.f. 27.12.2020 was not an arbitrary or illegal act but was a system driven, automated classification that occurred as a direct consequence of the applicant's persistent defaults in servicing the loan account and in accordance with the guidelines of the RBI; that applicants contention that they have been depositing 'reasonable amount' in the loan account from time to time is vague, evasive and legally untenable; that sporadic and insufficient payments made by the applicants were never enough to clear the accumulated overdue amount and regularize the account; that respondent had issued notice under Section 13(2) of the Act in strict compliance with the provisions of the Act based on the records available with it at the material time; that respondent was never apprised about the unfortunate demise of Sh. Sardar Singh on 01.08.2019; that neither the borrower(s) nor any of the legal heirs of the deceased ever provided any intimation, death certificate or any other documentary proof regarding the said death to the bank prior to the initiation of proceedings; that applicants by their own admission, were aware of the death of Sh. Sardar Singh since 01.08.2019 but deliberately chose to conceal this fact from respondent; that having failed in their primary duty to inform, they are now estopped by their own conduct, omission and acquiescence from raising this belated and technical plea to challenge the lawful recovery proceedings; that respondent has duly replied to the objections raised under Section 13(3-A) of the Act vide its reply dated 07.08.2021 with due application of mind and a thorough consideration of the objections raised by the

applicants, finding them to be devoid of any merit and legally untenable; that the sale notice dated 24.02.2026 was issued by respondent; that description of the secured asset in the sale notice dated 24.02.2026 is correct and complete conformity with the description of the secured asset mentioned in the sale deed Nos. 1731 and 1732 both dated 29.04.2011, which were deposited by applicants with respondent to create a valid and subsisting equitable mortgage; that the reserve price was fixed on the basis of series of fresh, independent and realistic valuations conducted by competent and duly empaneled valuers over a period of several years; that these valuations accurately reflect the prevailing market conditions, depreciation, location disadvantages and all other relevant factors; that valuation reports dated 11.02.2022, 23.09.2025 and 25.09.2025 are annexed as Annexure R-7; that the said sale notice was duly affixed on the secured asset on 26.02.2026, published in two newspapers 'The Indian Express' and 'The Chardikala' on 07.03.2026 and uploaded on the website of the bank; that sale notice dated 24.02.2026 was also served through registered post, postal receipts and track reports dated 24.02.2026 have been annexed along with Annexure R-8; that secured asset was duly registered with the Central Registry and document reflecting the CERSAI Registration has been annexed along with Annexure R-13; that the entire action under the Act is in complete conformity with the Act and Rules thereunder. Therefore, it was prayed that present SA may kindly be dismissed with exemplary costs.

(5) No replication was filed by applicants to the reply filed by respondent.

(6) I have heard arguments advanced by Sh. Pankaj Gupta, Advocate for Applicants and Ms. Manjari Joshi, Advocate for Respondent and gone through the record carefully. Both parties have also

filed their written submissions after exchanging the same.

(7) Ms. Manjari Joshi, Advocate argued that before going into the merits of the case, it may be decided that whether this SA and reliefs claimed in this SA are within the limitation period or not.

(8) It is established law that whenever a point of limitation is raised by the opposite party in any case then it must be decided first without going into merits of the case. Any applicant can argue or press his/her application after passing the hurdle of limitation. Therefore, this Tribunal is in agreement with the above argument of Ms. Manjari Joshi, Advocate and this Tribunal is deciding the point of limitation first before entering into the merits of the SA.

(9) Sh. Pankaj Gupta, Advocate argued that the present SA has been filed by applicants challenging the sale notice dated 24.02.2026 and the SA was filed on 24.03.2026 i.e., within the period of 45 days as per the Act. Therefore, the SA was filed well within the limitation period as prescribed under the law.

(10) *Per contra,* Ms. Manjari Joshi, Advocate argued that applicant No.1 has earlier assailed the measures taken qua the other two secured assets-measuring 1350 sq. yards and 2428 sq. yards by filing SA No.151/2024 and SA No.152/2024 before this Tribunal; that both these SAs proceeded on the identical foundation that is now sought to be re-agitated in the present SA, that classification of the loan account as NPA on 31.03.2021 since 27.12.2020 as well as to the demand notice dated 29.05.2021 and possession notice dated 26.11.2021 (besides the sale notices qua the other two properties); that vide order dated 17.02.2026, this Tribunal after hearing the arguments of all the parties, dismissed the SA No.151/2024 as time-barred, holding that the said SA was filed on 20.04.2024 and the same was beyond even the

extended period granted by the Hon'ble Supreme Court (expiring on 06.04.2024) qua sale notice dated 18.02.2022; that vide order dated 21.04.2025, this Tribunal dismissed IA No.1352/2024 filed in SA No.152/2024 seeking condonation of delay; that both the aforesaid orders are between the same applicants and the same respondent, concern the very same loan account and the very same NPA classification, demand notice dated 29.05.2021 and possession notice dated 26.11.2021-legality of which is once again sought to be impugned in the garb of a challenge to the sale notice dated 24.02.2026; that auction in pursuance to which failed for want of bid; that in fact, vide order dated 06.04.2026 this Tribunal has already adjudicated the grounds regarding the sale notice dated 24.02.2026 and passed a detailed order after hearing the arguments of both the parties; therefore, challenge to the extent of that sale notice is now becomes infructuous; that the above said orders passed in SA No.151/2024 & SA No.152/2024 have attained finality and squarely operate as res-judicata, constructive *res-judicata* and issue of estoppel against the applicants on the question of the legality of the classification of the account as NPA, demand notice and possession notice being raised beyond the limitation. Therefore, this SA may kindly be dismissed on this score only with exemplary costs.

(11) It reveals from record that the present SA has been filed by applicants on 24.03.2026 challenging demand notice under Section 13(2) of the Act dated 29.05.2021 (Annexure A-6), possession notice dated 26.11.2021 (Annexure A-11) and sale notice dated 24.02.2026 (Annexure A-20), whereby auction of the secured asset was fixed for 07.04.2026.

(12) It further reveals from record that the above said SA was listed for the first time on 30.03.2026 and the same was adjourned for

06.04.2026 for filing reply by respondent as the auction of the secured asset was fixed for 07.04.2026. It further reveals from record that on 06.04.2026 after hearing the arguments of both the parties as well as after perusal of record, a detailed order, which runs into 04 pages, was passed on the above said sale notice dated 24.02.2026 and the prayer for interim relief regarding stay of sale notice was declined.

(13) Relevant portion of the **order dated 06.04.2026** passed in above said SA is as under:

"After considering the above facts, circumstances, arguments of rival parties as well as after perusal of evidence on record, it appears that there is no illegality or irregularity committed by respondent in issuance of sale notice dated 24.02.2026 (Annexure A-20) and no case is made out by applicants in their favour to set aside the said notice, whereby auction of the secured asset is fixed for 07.04.2026 and there no ground to grant any interim relief and the same is declined."

(14) Except it, it was argued by Ms. Manjari Joshi, Advocate that the said auction was failed due to lack of bidders.

(15) In light of above, it appears that all the arguments to the extent of sale notice dated 24.02.2026 (Annexure A-20), whereby auction of the secured asset was fixed for 07.04.2026 were already adjudicated by this Tribunal vide order dated 06.04.2026 passed in above said SA as referred above. Therefore, adjudication on the said sale notice again is not required at all. In fact, the said sale was failed due to lack of bidders as argued by Ms. Manjari Joshi, Advocate. Therefore, this sale notice is now becomes infructuous in light of that statement.

(16) As far as the challenge to classification of account as NPA, demand notice under Section 13(2) of the Act dated 29.05.2021 (Annexure A-6) and possession notice dated 26.11.2021 (Annexure A-

11) are concerned, it was argued by Ms. Manjari Joshi, Advocate that it seeks to reopen the issues, which were already taken by the applicants by filing SA No.151/2024 & SA No.152/2024 before this Tribunal and the same is barred by limitation and further barred by the principles of *res judicata*, constructive *res judicata* and issue of estoppel.

(17) It is admitted fact between both the parties that earlier SA No.151/2024 titled as 'M/s Jairath Dyeing and Finishing Mills and Another Vs. Indian Bank and Others' and SA No.152/2024 titled as 'M/s Jairath Dyeing and Finishing Mills and Another Vs. Indian Bank and Another' were filed by applicants before this Tribunal and the same were dismissed vide order dated 17.02.2024 & 21.04.2025 respectively. It is also admitted fact that the above said SAs were filed between the same parties and in the same loan account. It is further admitted fact that order dated 17.02.2024 and 21.04.2025 passed in above SAs are still intact.

(18) **Section 11 of the Code of Civil Procedure** provides the provision of *Res-judicata*. Applications under Section 17 of the SARFAESI Act, which were registered as SA No.151/2024 and SA No.152/2024 are not before this Tribunal. Only orders passed in the SAs were filed by respondent as Annexure R-1 to the reply to SA. After perusal of the **order dated 17.02.2026** passed in **SA No.151/2024** titled as 'M/s Jairath Dyeing and Finishing Mills and Another Vs. Indian Bank and Others', it reveals that notice under Section 13(2) of the Act dated 29.05.2021 and possession notice under Section 13(4) of the Act dated 26.11.2021 were challenged and the same notices are challenged by the applicants in the present SA, which shows that the issues raised in this SA has been directly and substantially involved in the former SAs. Therefore, it appears that the above issues raised here in the present SA were also agitated/availed in the earlier SAs.

(19) It was admitted by both the parties that no Appeal against the said orders passed in above said SAs were filed before Superior Court to challenge the same. Therefore, it appears that the said orders attained finality.

(20) **Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002** provides, the time limit of 45 days of filing application under this Section from the date on which a measure had been taken referred to in sub-section (4) of Section 13 taken by the secured creditor or his Authorised Officer. Therefore, this SA was to be filed within 45 days from the date of measure referred to in sub-Section (4) of Section 13.

(21) No reason whatsoever has been mentioned in the SA as well as not argued during the course of arguments for condonation of delay rather it was argued that there is no delay in filing the present Securitization Application.

(22) The reason for providing a time limit of 45 days for filing an application under Section 17 can easily be inferred from the purpose and object of the enactment. **Hon'ble Supreme Court** in **Transcore Vs. Union of India and Another (2008) 1 SCC 125** has held that the SARFAESI Act is enacted for quick enforcement of the security.

(23) It is not open to any party to agitate the same issue by including a new one by filing fresh SA, which was already subject matter of earlier SA.

(24) As far as the argument of Sh. Pankaj Gupta, Advocate is concerned that the loan account was classified as NPA on 31.03.2021 since 27.12.2020 and respondent was not legally entitled to classify the account as NPA when the same was classified as NPA.

(25) Ms. Manjari Joshi, Advocate has opposed this argument and argued that this fact cannot be

agitated in the present SA and this Tribunal cannot adjudicate the same.

(26) In the considered opinion of this Tribunal when earlier two SAs were filed by the applicants against the respondent regarding the same SARFAESI proceedings then they cannot re-agitate the issues challenged earlier.

(27) Only new issue challenged here is sale notice and regarding it the detailed order was passed on 06.04.2026, which can be read as part of this SA. Except it, regarding the said sale notice dated 24.02.2026 no sale was conducted, therefore this SA is also infructuous.

(28) After careful consideration of submissions made on behalf of learned counsel for parties as well as legal principals, this Tribunal is of the considered opinion that applicants have filed this SA challenging the notice under Section 13(2), 13(4) and sale notice issued under the Act. Admittedly, sale notice is at present infructuous because no sale was conducted in terms of sale notice 24.02.2026. All other reliefs prayed in the SA are barred by limitation. Applicants have suppressed the material facts.

(29) Ms. Manjari Joshi, Advocate stated in the reply that applicants are chronic defaulters and an alarming amount of Rs.6,18,49,409/- is outstanding against the applicants inclusive of interest till 03.04.2026 and applicants have not made any payment towards the outstanding dues since 18.02.2021, which clearly establishes their persistent default.

(30) No replication to this reply was filed by applicants. It reveals from record that applicants are trying to install the recovery proceedings by filing SAs, CWPs, SLPs and running from pillar to post dragging respondent into several round of litigation. Sh. Pankaj Gupta, Advocate has not contradicted the above facts and outstanding.

(31) In the SARFAESI Act nowhere it is provided that applicants have any right not to deposit their outstanding dues.

(32) In light of above facts and circumstances as well as after perusal of record, this SA is liable to be dismissed.

(33) Accordingly, this **SA is dismissed.**

Record be consigned to record room after due compliance.

Date: 07.09.2026.

Pronounced by me in the open Tribunal.

(MRIDULESH KUMAR SINGH)
Presiding Officer,
DRT-III, Chandigarh