IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 17th day of September, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

SA No. 659 of 2023

1. M/s. Solar Designs Pvt, Ltd.,
   No.602, Parsn Manere, No.1, A Wing,
   3rd floor, Anna Salai,
   Chennai – 600 006.

2. Mr. Apath Sakaayem AAK
   Director, M/s. Solar Designs Pvt, Ltd,
   Pillaiyar Karpagham,
   Flat No.6, 1st Floor, 14/10, Vasanth Apats,
   Sadasivam Street, Gopalapuram,
   Chennai – 600 086.

3. Mrs. C. Sumathi,
   Pillaiyar Karpagham,
   Flat No.6, 1st Floor, 14/10, Vasanth Apats,
   Sadasivam Street, Gopalapuram,
   Chennai – 600 086.

4. Mrs. James Arockia Mary,
   D/o. Late Mr. Santiago,
   Director of M/s. Solar Designs Pvt, Ltd,
   No.6/11, 1st Cross Street, Kannadasan Nagar,
   Chennai – 600 118.

5. A. Kruthika,
   D/o. A.A.K. Apath Sakaayem,
   Pillaiyar Karpagam,
   Flat No.6, 1st Floor, 14/10, Vasanth Apats,
   Sadasivam Street, Gopalapuram,
   Chennai – 600 086.

…Applicants

-Vs-

1. The Authorised Officer,
   Indian Overseas Bank,
   Asset Recovery Management Branch,
   3rd Floor, Central Office Annexure Building,
   No.763, Anna Salai,
   Chennai – 600 002.

2. Mr. L. Sivakumar
S/o B. Loganathan
No.55, Flat No.12, Fakkir Shahib Street,
Triplicane, Chennai – 600 005.

(Impleaded as per order dated 20.08.2025 in IA No.401/2025)

…Respondents

Counsels on record / appeared:

Counsel for Applicant	:	M/s. G.R. Associates
Counsel for 1st Respondent	:	M/s. Lex Aeterna Practices
Counsel for 2nd Respondent	:	Mr. B. Rajesh

ORDER ON SA 659 /2023

The present Securitization Application [SA] is filed under sub section [1] of S.17 of the Securitization and Reconstruction of Financial Asset and Enforcement of Security Interest Act,2002 (for short the 'Act') challenging the action and the measure taken by the secured creditor under the Security Interest Enforcement Rules, 2002 [for short the Rules].

2. The applicant has challenged the Sale notice dated 01.12.2023 fixing the sale on 21.12.2023 and the outstanding amount due as per Sale notice is Rs.20,11,01,083/-

3. The 1st applicant availed credit facilities from the respondent bank and 2nd to 5th applicants stood as guarantors to the credit facilities availed by 1st applicant and also created equitable mortgage of three properties which is described in the schedule. The loan account was classified as NPA on 08.11.2014 and common Demand notice dated 23.01.2015 under

Section 13(2) was issued to liquidate the entire liability of Rs.14,13,43,641.24/-.

4. Further, the bank has issued common Possession notice dated 18.04.2015 for the immovable properties claiming a total outstanding amount of Rs.17,96,51,526.74/- with simple interest of 9% was claimed in DRC No.616/2017 in OA No.633/2015 dated 20.12.2017. The Ld. Recovery Officer of Hon'ble DRT II had issued sale notice dated 03.08.2018 for sale of all properties and the property situated at Nungambakkam with plinth area of 1748 sq.ft., with 480 sq.ft., / 4265 sq.ft., and 17 grounds 1856 sq.ft., was sold. The Ld. Recovery Officer of Hon'ble DRT II had dismissed the MA No.214/2018 on 12.11.2018.

5. Subsequently, the Ld. Recovery Officer of Hon'ble DRT II had issued another sale notice on 12.11.2018 for an outstanding amount of Rs.17,96,51,526/- with further interest and fixed the upset price of Rs.4,93,00,000/- and Rs.1,82,00,000/- scheduling the sale to be held on 19.12.2018 which did not fructify for want of bidders. Again, the Ld. Recovery Officer issued sale notice dated 07.03.2020 to recover Rs.19,94,10,710/- and fixed the sale to be held on 27.03.2020 for reserve price of Rs.4,01,02,000/- and Rs.1,52,53,000/- for the schedule mentioned properties. The auction sale notice dated 07.03.2020, 01.10.2020 and 05.11.2020 not fructified for want of bidders.

6. It is submitted that Ld. Recovery Officer has issued another sale notice dated 20.01.2021 with upset price of Rs.4,21,00,000/- and

Rs.1,50,00,000/- and the sale notices dated 13.09.2021, 08.02.2022, 23.09.2022 were unsuccessful for want of bidders.

7. The respondent bank has considered the OTS proposal of applicants vide communication bearing ARMB/147/2020-21 for Rs.6.00 crores with condition to pay Rs.60,00,000/- to show applicants' Bonafide and the OTS sanction letter dated 20.03.2021 was received by the applicants only on 03.04.2021 and the time period of 90 days has to be calculated from the date of receipt which is denied by respondent bank vide e-mail communication dated 05.04.2021.

8. The applicants on 17.06.2021 had requested for extension of time due to the Covid-19 pandemic which respondent bank denied the request vide e-mail dated 25.06.2021. Due to Covid-19 pandemic, the applicants have faced financial crisis and the amount received through loan account was kept on no-lien account which was transferred before the issuance of OTS sanction letter.

9. The reserve price of the property situated at Gopalapuram was reduced from Rs.3,98,40,000/- to Rs.3,58,56,000/- and the respondent bank has failed to obtain proper valuation report from an approved valuator to fix the reserve price and market value of the property is Rs.5,00,00,000/-.

10. The respondent bank has to give clear notice of 30 days and paper publication has to be affected, though the respondent bank has immediately published the sale notice without giving opportunity to redeem

the property. The applicants approached the respondent bank expressed willingness to purchase the property for Rs.6,00,00,000/- which is more than the outstanding due amount mentioned in the sale notice but the respondent bank has rejected the proposal without any justification. Further, the applicants had requested for OTS vide letter dated 05.10.2023 for Rs.4,75,00,000/- along with prospective buyer and the bank has rejected and stated to improve the OTS offer.

11. The respondent bank has issued another sale notice dated 07.10.2023 scheduling the sale to be held on 31.10.2023 with reserve price of Rs.3,58,56,000/- and Rs.1,52,66,000/- and the Gopalapuram property was sold to the auction purchaser. The applicants have challenged the sale held on 31.10.2023 in SA No.613 of 2023 on 08.12.2023, the respondent bank has issued another sale notice dated 01.12.2023 fixing the sale to be held on 21.12.2023 for sale of last immovable property. It is submitted that the respondent bank has issued another sale notice when the sale notice dated 07.10.2023 is pending before this Tribunal.

12. In the grounds, it is contended that the classification of loan account as NPA is not in accordance with RBI guidelines and during the pendency of SA No.613 of 2023, the bank has issued another sale notice with same valuation report and also reduced 30% value of the property which is in contrary to Rule 8(5) of SIE Rules.

13. The respondent bank has failed to give clear 30 days sale notice which is in violation of ***Celir LLP Vs. Bafna Motors (Mumbai) Pvt. Ltd,***

& Ors. **2023 INSC 838.** The applicants have relied on the Judgment passed by Hon'ble Madras High Court in ***Sheeba Philominal Merlin and Anr. Vs. The Repatriates Co-op Finance & Development Bank Ltd, & Ors.*** **2010 (4) LW 497** and Judgment passed by Hon'ble Supreme Court in ***Mardia Chemicals Vs. Union of India*** **AIR 2004 SC 2371.**

14. It is submitted that respondent bank has rejected the extension of OTS proposal without considering the Covid-19 pandemic which is in violation of Judgment passed by Hon'ble High Court of Punjab and Haryana in the case of ***Anu Bhalla and Anr. Vs. District Magistrate, Pathankot and Anr.*** **CWP No.5518 of 2020 on 22.09.2020** which is also reiterated in the case of ***Aseem Gaind Vs. Axis Bank, Retail Assets Centre,*** **CWP No.32015 of 2019 (O&M)** before the Hon'ble High Court of Punjab and Haryana dated 19.01.2022.

15. The respondent bank has failed to advertise the auction sale before conducting the sale of the asset which is in violation of Judgment passed by Hon'ble Supreme Court of India in ***Express Newspaper Pvt, Ltd., Vs. Union of India and Ors.*** **AIR 1986 SC 872.** The Possession notice dated 18.04.2015 and all the sale notices were not affixed on the property.

16. The respondent bank has failed to follow Article 12 of Constitution of India and rejected the extension of OTS scheme when the applicant is MSME. On these grounds, the applicants prays to set aside the auction sale notice dated 01.12.2023 fixing the sale to be held on 21.12.2023.

17. The respondent bank has filed a detailed counter inter alia contending that the loan account was declared as NPA on 08.11.2014, admitted the receipt of Demand Notice dated 23.01.2015 with outstanding amount of Rs.17,96,51,526.74/- and the receipt of Possession Notice. Further, the applicants have also admitted that the properties were brought for sale several times which did not fructify for want of bidders.

18. The respondent bank has granted OTS which was not complied by the applicants and also published the sale notice on 03.08.2028 (sic, 03.12.2023) after the issuance of sale notice as per the SARFAESI Act. The applicants have failed to comply with the OTS offer and the property situated at Gopalapuram was sold on 31.10.2023 for Rs.3,62,56,000/- and sale certificate was issued on 07.11.2023.

19. The applicants have filed SA No.613 of 2023 challenging the sale held on 31.10.2023 pursuant to the sale notice dated 07.10.2023 and failed to show bona fides before this Tribunal. The respondent bank has issued another sale notice dated 01.12.2023 which was challenged by the applicants in the present SA and the property situated at Triplicane was sold for Rs.1,53,66,000/- on 28.12.2023.

20. It is submitted that the respondent bank has obtained proper valuation report and fixed the upset price for the sale notice dated 01.12.2023, further the respondent has fixed the reserve price after considering the failure of previous sale notices. Hence, the respondent bank prays to dismiss the present SA.

Heard both sides of the Counsels and perused the records of the case.

21. The records of the case reflects that 1st applicant is the borrower has availed credit facilities from the respondent bank and 2nd to 5th applicants stood as guarantors and mortgaged three properties as collateral security towards the credit facilities availed by the borrower which is not disputed by the applicants.

22. Due to the default in repayment, the loan account was classified as NPA on 08.11.2014 which is admitted by the applicants at Page No.3 and Para No.1 of present SA. Consequent to classifying the loan account as NPA the respondent bank has issued Section 13(2) Demand Notice dated 23.01.2015 and Section 13(4) Possession Notice dated 18.04.2015 which is an undisputed fact.

23. The applicants have challenged the Possession notice in SA No.78/2015 which came to be allowed on 18.08.2015, hence the respondent bank has issued another Possession notice dated 08.09.2015 which is produced by the applicants at Page No.1 in common additional typed set. Though the applicants had challenged the earlier possession notice dated 18.04.2015 has not challenged the Possession notice dated 08.09.2015 within the period of 45 days as required under Section 17 [1] of the Act which is barred by limitation.

24. Even after the receipt of statutory notices, the applicants failed to liquidate their entire liability and the respondent bank has proceeded

further by issuing several auction sale notices under RC proceedings which were admitted by the applicants from Para No.3 to 5 and 10 of the present SA. Further, it is evident that the applicants are aware of the measures initiated by the respondent bank to sell the property.

25. It is seen that the applicants have challenged the sale notice dated 16.09.2015 scheduling the sale to be held on 28.10.2015 in SA No.125/2015 which was dismissed as infructuous for want of bidders on 13.06.2016. Further, the applicants have also challenged the sale held on 31.10.2023 pursuant to the sale notice dated 07.10.2023 in SA No.613/2023 which is pending before this Tribunal.

26. The applicants have challenged the sale notice dated 01.12.2023, firstly that the respondent bank has failed to extend the OTS proposal to the applicants herein which is not sustainable, the applicants have invoked the writ Jurisdiction, in W.P.No.13681 of 2021 before the Hon'ble Madras High Court and requested to extend the OTS facility given to other customers to which the Hon'ble High court has passed the following order:

> *…2. In several matters of the present kind, a consistent view has been taken by this Court that the Writ Court would ordinarily not interfere with the private agreement between a banker and its constituent or unilaterally alter the terms of any one-time settlement, particularly since the OTS offers are made to several similarly placed constituents and it would be extremely unfair to extend the time for the litigant who has come to court and deny the extension to others who may not have come to court.*

3. It is the misplaced sympathy of the court at times that results in injustice upon the time being enlarged for one person whereas other persons of the same class are left in the lurch.

4. It is more likely than not that the respondent Indian Overseas Bank may have granted similar OTS terms to many constituents. If the terms are to be altered in any respect in favour of the petitioner, the similar concession should be granted to others.

5. Accordingly, W.P.No.13681 of 2021 is disposed of by requesting Indian Overseas Bank to consider whether it could enlarge the time to make the balance payment in terms of the OTS scheme to all creditors similarly situated as the petitioner, in view of the second surge of the pandemic. The petitioner will be free to appeal to the concerned bank to take the lockdown restrictions into consideration and extend the time for making the payment in terms of the OTS scheme. However, if any time is extended in favour of the petitioner, the same latitude must be shown to other similarly placed persons by the relevant bank.…

27. Therefore, the applicants have raised the same contention before the Hon'ble High Court of Madras in W.P.No.13681 of 2021 which came to be dismissed on 09.08.2021. The first contention in challenging the sale notice dated 01.12.2023 in the present SA is non consideration of the OTS cannot be considered as it is the wisdom of the bank to grant or reject the OTS in terms of RBI guidelines. The applicants are giving repeated OTS proposals without any serious intention to the settle the liability. Hence, the contention of the applicants with regard to the extension of OTS fails.

28. **Secondly,** it is contended that the respondent bank has reduced the value of the property and failed to obtain proper valuation report as per

Rule 8(5) of SIE Rules which is contrary, as the applicants have admitted the issuance of several sale notices which clearly evidences that the respondent bank is trying to sell the property and due to failure of the previous sale notices, the authorized officer has fixed the reserve price of Rs.1,52,66,000/- considering the valuation report dated 14.03.2023. Further, the applicant has produced the valuation report dated 29.10.2023 and evidently the respondent bank has fixed the reserve price more than the guideline value. Hence, the contention of the applicants that the bank has undervalued the property is not sustainable and a mere statement that the valuation is low would not aid the applicants herein.

29. **Thirdly,** the respondent bank has failed to give right of redemption of property available to applicants as per Section 13(8) of SARFAESI Act is duly countered by the respondent bank that the sale notice dated 01.12.2023 was published in the Newspapers as per Section 13(8) of SARFAESI and for better adjudication the same is extracted hereunder:

Section 13(8):

Where the amount of dues of the secured creditor together with all costs, charges and expenses incurred by him is tendered to the secured creditor at any time before the date of publication of notice for public auction or inviting quotations or tender from public or private treaty for transfer by way of lease, assignment or sale of the secured assets

30. It is seen that the respondent bank has published the sale notice in two Newspapers, one in "New Indian Express" (English) and "Dinamani" (Tamil) both dated on 03.12.2023 after issuing the sale notice dated

01.12.2023. Further, the respondent bank has postponed the auction sale to 28.12.2023 due to cyclone and floods which is intimated to the applicants as per communication dated 18.12.2023 which is sent by RPAD and the postal receipts produced at Page No.17 of respondent's counter. Further, the communication dated 18.12.2023 is also published in English and Tamil daily Newspapers as evident from paper publications produced at Page No.18 and 19 of respondent's counter. In spite of redemption clause, applicants failed to liquidate the entire liability before the publication and lost their right of redemption as required under Section 13[8] of the Act.

31. **Fourthly,** that the respondent bank has issued the sale notice dated 01.12.2023 during the pendency of challenge to sale held on 31.10.2023 in SA No.613/2023 is not sustainable as the applicants failed to prove their bonafides in SA No.613/2023 Tribunal has dismissed the IA No.1750/2023 for stay of auction sale. Therefore, the Tribunal has not granted any status of quo or interim order, thus the respondent bank has proceeded further in issuing the sale notice dated 01.12.2023. Hence, the contention of the applicant that the respondent bank has issued sale notice dated 01.12.2023 during the pendency of SA No.613/2023 is fails.

32. **Fifthly,** is that respondent bank failed to give proper 30 days sale notice and failed to affix the same on the property which is duly countered by the bank by producing the photograph of affixture at Page No.12 to 14 which clearly evidences that the sale notice is affixed on the conspicuous place of the property. Further, the impugned sale notice dated 01.12.2023 scheduling the sale to be held on 21.12.2023 is issued after failure of

several sale notices which is admitted by the applicants and the respondent bank has issued clear 15 days notice as per Rule 9(1) of SIE Rules. Hence, the contention of the applicants with regard to issuance and affixture of sale notice fails.

33. It is seen that the auction sale was successfully held on 21.12.2023 in favor of Mr. L. Sivakumar for sale consideration of Rs.1,53,66,000/- to the Item No.2 property of Mrs. A. Kruthika and chance for counter of R2 the auction purchaser stands closed on 04.03.2026. Further the respondent bank has filed memo and stated that after appropriating sale consideration of Rs.1,53,66,000/- the balance outstanding amount is Rs.5,16,22,000/- as on 23.07.2025.

34. Upon examination of the facts, pleadings and the documents produced by the respective parties, the Tribunal comes to inevitable conclusion that the respondent bank as secured creditor has initiated the measures under the Act and have established due compliance of the procedures as mandated under the Acts and Rules made there under, On the other hand the applicant has failed to point out any illegality in the measures taken by the respondent bank in conducting the auction sale on 21.12.2023. The Tribunal concludes that the auction sale notice dated 01.12.2023 fixing the sale to be held on 21.12.2023 and the sale held in favor of the 2nd respondent is in accordance with the Act and Rules made thereunder. For the foregoing reasons the present SA is only to be dismissed.

35. Resultantly the present SA is dismissed. Interim Order granted, if any stands vacated, pending IAs are disposed of in terms of this final order. No order as to cost.

Sd/-
(S.V. GOWRAMMA)
PRESIDING OFFICER,
DRT-III, CHENNAI

(Dictated to Steno (Mogesh), transcribed by him, corrected, signed and pronounced by me on this the 17th day of September, 2026)

ANNEXURES

LIST OF DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Document No.
1.	Demand Notice dated 23.01.2015	A-1
2.	Possession Notice dated 18.04.2015	A-2
3.	E-Auction sale proclamation issued by Recovery Officer DRT – II. Chennai vide DRC No.616/2017 in OA No.633/2015 dated 03.08.2018	A-3
4.	Sale notice issued by the respondent bank dated 07.03.2020	A-4
5.	Letter issued by the applicant to the respondent bank dated 23.02.2021	A-5
6.	Letter issued by a prospective purchaser to the respondent bank dated 24.02.2021	A-6
7.	Letter issued to the respondent requesting for settling the outstanding loan dated 04.05.2021	A-7
8.	Reply letter issued by the respondent bank declining the applicant's request dated 05.05.2021	A-8
9.	Valuation report pertaining to the scheduled property obtained by the respondent bank dated 14.03.2023	A-9
10.	New Special OTS/OCS Scheme – 2023 issued by the respondent bank dated 19.05.2023	A-10

11.	Letter from the applicant to the respondent bank proposing to settle the dues requesting OTS dated 09.08.2023	A-11
12.	Letter issued to the respondent requesting OTS dated 05.10.2023	A-12
13.	Sale notice issued by the respondent bank dated 07.10.2023	A-13
14.	E-Mail communication from the respondent bank to the applicant regarding OTS offer dated 07.10.2023	A-14
15.	Valuation report for Triplicane auction property dated 29.10.2023	A-15
16.	Letter from applicant to respondent bank objecting the e-auction sale and with improved OTS offer dated 03.11.2023	A-16
17.	Letter from applicant to respondent bank with improved OTS offer dated 08.11.2023	A-17
18.	Email Correspondence between the applicant and the respondent bank dated 13.11.2023	A-18
19.	Communication from the applicant to the respondent bank via Email and post dated 13.11.2023	A-19
20.	Reminder communication from the applicant to the respondent bank with postal receipt dated 14.11.2023	A-20
21.	Reply Email from the respondent bank to the applicant dated 15.11.2023	A-21
22.	Reply communication from 1st applicant to the respondent dated 15.11.2023	A-22
23.	OTS policy of the respondent bank for MSME with SIDBI policy	A-23
24.	E-Auction sale notice issued by the respondent bank dated 01.12.2023	A-24

LIST OF ADDITIONAL DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Document No.
1.	Order passed in SA No.78/2015 dated 18.08.2015	A-1
2.	Securitization Application in SA No.78/2015 dated 16.10.2015	A-2
3.	Daily Orders in SA No.125/2015	A-3

LIST OF ADDITIONAL DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Document No.
1.	Possession Notice impugned in SA No.125 of 2015 dated 08.09.2015	A-1
2.	Acknowledgment cards and returned cover in respect of Possession Notice filed by the respondent bank in SA No.125 of 2015	A-2
3.	Counter Affidavit of respondent bank in SA No.125 of 2015	A-3
4.	Order passed by the Recovery Officer against the Mr. L. Sivakumar in MA No.157 of 2021 in DRC No.616 of 2017 in OA No.633 of 2015 dated 18.11.2021	A-4
5.	Order passed by the Hon'ble DRT – II in Appeal No.1 of 2022 in MA No.157 of 2021 in DRC No.616 of 2017 in OA No.633 of 2015 dated 05.08.2022	A-5
6.	Order passed by the Hon'ble Madras High Court in W.P.No.36401 of 2023 dated 25.03.2024	A-6
7.	Representation of the 1st petitioner to the respondent dated 25.03.2024	A-7
8.	Detailed representation for OTS given by the 1st petitioner dated 30.03.2024	A-8

LIST OF DOCUMENTS PRODUCED BY THE 1ST RESPONDENT

Sl. No.	Description of Documents	Document No.
1.	Sale notice with postal receipt dated 01.12.2023	R-1
2.	Paper publication in English and Vernacular dated 03.12.2023	R-2
3.	Affixture of sale notice dated	R-3
4.	Intimation Sale Postponed letter with postal receipt dated 18.12.2023	R-4
5.	Paper publication in English and Vernacular	R-5
6.	Valuation report dated 14.03.2023	R-6

SCHEDULE OF PROPERTY

Schedule A:

All that part and parcel of the House, Ground and premises, bearing Door No.19, New Door No.34, Chinnathambi Mudali Street, Thiruvatteswaranpet, Triplicane, Chennai – 600 005, comprised in R.S.No.168/9B of Triplicane Village, Patta No.171/2001 dated 28.02.2001, issued by the Tahsildar, Mylapore – Triplicane Taluk, bounded on the

North by: Vasanthalal House in R.S.No.168/2026

South by: Chinnathambi Mudali Street,

East by: Vasanthalal & his brother's property in R.S.No.168/25 & 169/9C,

West by: Balaram House in R.S.No.168/20 & Veeranam House in R.S.No.168/9A.

All measuring an extent of 1635 sq.ft., as per documents, and as per patta measuring about 1624 sq.ft., situated within the Registration District of Central Chennai and Registration Sub-District of Triplicane, within the Chennai Corporation Limits.

Schedule B:

All that part and parcel of the one-half portion of the land measuring an extent of 817.5 sq.ft., out of 1635 sq.ft., together with building erected thereon measuring 1200 sq.ft., consisting Ground floor and first floor, on the western side of the schedule A property, bearing Door No.19, New No.34, Chinnathambi Mudali Street, Thiruvatteswaranpet, Triplicane, Chennai – 600 005, comprised in R.S.No.168/9B of Triplicane village, bounded on the

North by: Vasanthalal House in R.S.No.168/2026

South by: Chinnathambi Mudali Street,

East by: Remaining one-half portion of the property belonging to C. Saravanan in Survey No.168/9B Part.

West by: Balaram House in R.S.No.168/20 & Veeranam House in R.S.No.168/9A.

Situated within the Registration District of Central Chennai and Registration Sub-District of Triplicane, within the Chennai Corporation Limits.

Sd/-
(S.V. GOWRAMMA)
PRESIDING OFFICER,
DRT-III, CHENNAI

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