IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 28th day of September, 2026

PRESENT: **SHRI SHARANG DHAR UPADHYAY**
Presiding Officer

SA No.505 of 2024

1. **M/s. Poovai Amman Agency,**
No.87, East Street,
Kongrayapalayam, Nagalur (Post)
Villupuram District – 606 203

Also at

M/s. Poovai Amman Agency,
No.4 Panchayat Union Complex,
Dugam Road, Kallakurichi – 606 202.

2. **Mr. S. Selvaraj,**
Son of SarangaGounder,
No.89/1, Main Road,
Kongrayapalayam, Nagalur (Post)
Villupuram District – 606 203

3. **Mrs. S. Chellammal,**
Wife of Selvaraj,
No.89/1, Main Road,
Kongrayapalayam, Nagalur (Post)
Villupuram District – 606 203

4. **Mr. S. Karthikeyan**
S/o Selvaraj
No.89/1, Main Road,
Kongrayapalayam, Nagalur (Post)
Villupuram District – 606 203.

5. **Mr. S. Prakash,**
S/o Selvaraj
No.89/1, Main Road,
Kongrayapalayam, Nagalur (Post)
Villupuram District – 606 203. **...Applicants**

Versus

1. City Union Bank Limited
Having its Office at 149, TSR (Big) Street
Kumbakonam and having branch at Kallakurichi
Represented through its
Authorised Officer / Chief Manager
Mr. G. Viswanathan

2. N. Rajeshkumar
S/o Nagarajan
No.64/10A, 5th Street
Ezhil Nagar, Valappady
Salem – 636 115 **…Respondents**

Counsel on Record / Appeared

Applicants by : M/s K.A. Ramakrishnan
1st Respondent by : M/s Ananda Gomathy & R. Roshan
2nd Respondent by: M/s V. Elumalai

ORDER

1. This petition is filed under Section 17(1) of the SARFAESI Act challenging the measures initiated by the respondent bank pursuant to the order of the Learned Chief Judicial Magistrate, Kallakurichi in Crl. M.P. No.111 of 2024 dated 18.09.2024.

Brief facts of the case as averred in the application

2. The 1st applicant is a proprietorship concern, represented by the 2nd Applicant as its Proprietor. Applicants 3 to 5 are the guarantors for the loan availed by the 2nd applicant. The 2nd applicant in order to improve the business of the 1st applicant had approached the respondent bank in the year 2011 for financial assistance and had taken loan against the property, which was sanctioned by the Kallakurichi Branch of the Respondent bank.

3. To secure above said loan facility, the Respondent bank has obtained Signatures from the applicants in various printed forms and documents. Further the 2nd applicant has created on equitable mortgage in respect of his agricultural properties which are more fully described in the Schedule hereunder and in the sale notice to and in favour of Respondent bank. The applicants also mortgaged other agricultural properties in favour of the respondent bank.

4. After availing the loan, the applicants were making the payments regularly, however, due COVID-19 pandemic they sustained heavy loss in the business and they could not to repay the dues. The Respondent bank without considering the remittance declared the loan account as NPA and initiated proceedings under the SARFAESI Act.

5. The respondent bank has failed to issue Demand notice and possession notice to all the applicants. Without following the mandatory provisions of the Act, the Respondent bank has issued sale notice dated 25.09.2023. The Sale notice is not served to the 1st and 2nd Applicant. On the date of issuance of sale notice, the 2nd applicant was in Central Prison, Cuddalore, relating to a case for an offence u/s 138 of the N.I. Act. Aggrieved by the conviction and sentence, he filed Criminal Revision before the Hon'ble High Court, Madras and it was later compromised.

6. Without proper service of notice to the 1st and 2nd applicants, who are the owners of the properties, to respondent bank wantonly and deliberately issued the sale notice and sold the properties without following mandatory provisions on contemplated under the SARFAESI Act and Rules, the Respondent bank has conducted the sale, not through e-auction sale, the sale is conducted by way of inviting Tender cum auction. Aggrieved by same, the applicants have filed SA No.531 of 2023 praying to set aside the sale held on 16.10.2023 is pending before this Tribunal, and the sale certificates if any issued in pursuance of the sale notice dated 25.09.2023.

7. During the pendency of SA No.531 of 2023, the Authorised Officer of the respondent bank filed proof affidavit before the Ld. Chief Judicial Magistrate, Kallakurichi on 11.9.2024, without disclosing the sale of the mortgaged properties through tender cum auction sale held on 16.10.2023. Aggrieved by the same, the present SA is filed

Grounds of Application

8. The applicants raised the following grounds: -

(a) The entire proceedings taken by the Respondent bank under the SARFAESI Act as against the property owned by the applicants is illegal, unjust arbitrary and violating of the principals of the natural justice.

(b) The amount claimed in the impugned order is not correct and the respondent bank has charged exorbitant interest and has arrived at the amount of Rs.75,40,051/-

(c) The entire action of the respondent bank is vitiated for the reason that the Section 13(2) notice and the Section 13(4) are not validly served on the applicants.

(d) The Respondent bank has violated Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 and hence the impugned action is liable to be set aside.

(e) The Respondent bank has failed to register the security interest with CERSAI thereby violating Section 26D of the SARFAESI Act.

(f) The impugned order dated 18.09.2024 suffers both from errors of facts and law.

(g) The impugned order is silent on the aspect of service of Section 13(2) and 13(4) notices to the applicants.

(h) The Ld. Chief Judicial Magistrate has failed to verify / examine the various aspects required to be verified in an application filed under Section 14 of the SARFAESI Act.

(i) The impugned order is not in consonance with Section14 of the SARFAESI Act.

(j) The Authorised Officer has failed to disclose the pendency of SA No. 531 of 2023. The description of the property described in the schedule to the petition filed under Section 14 of the Act is not correct, wherein the respondent has deliberately omitted to mention the superstructure put up thereon.

Documents filed by the respondent

9. The applicant filed the following documents along with the SA: -

(a) Sale notice dated 25.09.2023 issued by the Respondent Bank.

(b) Letters from the Respondents to the applicants dated 17.10.2023.

(c) Copy of SA No.531 of 2023 on the file of this Tribunal.

(d) Counter filed by the Respondent bank in SA No.531 of 2023.

(e) Sanction ticket dated 06.03.2021.

(f) Statement of Accounts dated 26.09.2023

(g) Application dated 30.10.2023 filed by the respondent bank under Section 14 before Ld. CJM, Kallakurichi.

(h) Affidavit dated 11.09.2024 filed by the respondent bank before Ld. CJM, Kallakurichi.

(i) Impugned order passed by Ld. CJM, Kallakurichi in Crl. M.P. No.111 of 2024.

(j) Copy of warrant issued by Ld. CJM, Kallakurichi in Crl. M.P No.111 of 2024.

Counter of the 1st Respondent Bank

10. The applicants herein had availed various credit facilities and the same was secured by mortgage of properties situated at Kongarapallayam village and Nagalur village. The applicants committed default and hence the loan account was classified as NPA and the 1st respondent issued the demand notice dated 03.09.2022 and the applicants did not raise any objection. As no payment was forthcoming the respondent took symbolic possession by causing possession notice on 11.11.2021 and thereafter the 1st resident issued sale notice dated 25.9.2023 and brought the properties for sale on 16.10.2023 and in the said sale the property situated at Nagalur admeasuring 2.94 acres was sold and the same stand impugned in SA No.531 of 2023.

11. While so, the 1st respondent approached the Ld. CJM, Kallakurichi in Crl. M.P. No.111 of 2024 and obtained an order on 18.9.2024 whereby an Advocate Commissioner was appointed for taking physical possession of the property situated at Kongarayapalayam Village.

12. The present SA challenging the order of Ld. Chief Judicial Magistrate, Kallakurichi dated 18.9.2024 is filed with grounds which are unsustainable. It is stated that the 1st respondent has filed the affidavit before the Ld. Chief Judicial Magistrate giving the particulars as required under Section 14 of the Act.

13. The proof of service of demand notice, CERSAI report and proof of service of possession notice are clearly mentioned and the same are contained in the typed set of papers. Further, the application clearly states the outstanding dues as on the date the accounts were frozen. Further the description of the properties which is the subject matter of the instant application i.e., an extent of 88 cents and the same has been culled out from the Memorandum of Deposit of Title deeds.

14. The order of the Ld. Chief Judicial Magistrate being ministerial, he is not required to adjudicate over the facts and documents put forth by the respondent herein. The impugned order does not suffer from any infirmities and the SA is liable to be dismissed with exemplary costs.

15. The 1st respondent filed the following documents along with its counter viz., Demand Notice dated 03.09.2021 along with postal acknowledgements, Possession Notice dated 10.11.2021 along with postal acknowledgement, Paper publication of the possession notice in newspapers dated 17.11.2021, proof of affixture of possession notice and CERSAI Report.

Counter by 2nd Respondent

16. This respondent adopts the counter filed by the 1st respondent bank. This respondent is the auction purchaser and the sale certificate dated 29.12.2023 has also been issued in his favour. This respondent is the successful bidder in the auction conducted by the 1st respondent on

16.10.2023 for a sale consideration of Rs.60,10,000/- and the sale certificate has been issued by the 1st respondent in favour of this respondent and the same has been duly registered vide Doc. No.2891/2023, SRO, Nagalur.

17. The applicants have filed the above application without any valid grounds and the order passed by Ld. Chief Judicial Magistrate, Kallakurichi does not suffer from any infirmity and the SA is liable to be dismissed with exemplary costs.

Written Submissions of the parties

18. The applicants filed their written submission reiterating their contention made in the SA and has raised three issues for determination viz., (i) The 1st respondent bank has failed to mention the correct due amount as on the date of filing the application under Section 14 of the Act before the Ld. Chief Judicial Magistrate, Kallakurichi; (ii) the impugned order of the Ld. Chief Judicial Magistrate is not in consonance with Section 14 of the SARFAESI Act; and (iii) The Authorised Officer has failed to disclose the pendency of the SA No.531 of 2023 before this Tribunal challenging the sale held on 16.10.2023 and prayed for setting aside the impugned order.

19. The 1st respondent bank did not choose to file its written submissions.

20. The 2nd respondent filed written submissions reiterating the contention in the counter affidavit and submits that the auction purchaser / 2nd respondent derives title on confirmation of sale in his favour and the issuance of sale certificate is only an evidence to prove that the sale was confirmed in his favour conveying the title.

21. The 2nd respondent submit that the rights of the auction purchaser needs to be upheld and relied on the following judgments:-

(i) Judgment of the Hon'ble Supreme Court in Janak Rai Vs. Gurdilal Singh and Ors. Reported in AIR 1967 SC 608;

(ii) Judgment of the Hon'ble Supreme Court in B. Arvind Kumar Vs. Govt. of India & Ors. Reported in (2007) 5 SCC 745;

(iii) Judgment of the Hon'ble Supreme Court in Valji Khimji and Company Vs. Official Liquidator of Hindustan Nitro Product (Gujarat) Ltd., & Ors reported in (2008) 9 SCC 299 and

(iv) Judgment of the Hon'ble Supreme Court in Standard Chartered Bank Vs. V. Noble Kumar & Ors.

(v) Order of the Hon'ble High Court of A.P. in Sri Sai Annadhatha Polymers and Ors. Vs. The Canara Bank – 2018 (6) TMI 1840;

(vi) Judgment of Hon'ble Supreme Court in CELIR LLP Vs. Bafna Motors (Mumbai) Pvt. Ltd., & Ors. – 2023 (10) TMI 48.

22. It is submitted that as per Section 13(8) the right of redemption ceases once the auction is concluded and the sale certificate is issued and the borrower or any claimant loses the right to redeem the mortgaged property once the auction is completed and a sale certificate is issued. The auction conducted by the 1st respondent is valid and in compliance with the statutory requirements under the SARFAESI Act

23. The matter is heard. In the wake of available material on record, the following points arise for consideration in the present SA:

"Whether the impugned order of Ld. Chief Judicial Magistrate, Kallakurichi dated 18.092024 in Crl. M.P. No.111 of 2024 suffers from any illegality or impropriety rendering it void in law?"

Answers to Point for Consideration

24. It is to be noted that the Hon'ble Supreme Court in "***NKGSB Co-operative Bank Limited Vs. Suber Chakravarty"*** and "***R.D. Jain and Company Vs. Capital First Limited CA 1755 of 2022 dated 27.07.2022***" ruled that no adjudicatory powers are vested while deciding the application under Section 14. In the matter of ***"Indian Bank Vs. Vishalakshi and Another CA 6295/2015 dated 23.09.2019"***, the Hon'ble Supreme Court had further held that the proceedings under Section 14 is a procedural step and purely an administrative order and there is no adjudicatory process involved. Keeping in mind the above rulings, this Tribunal can only examine whether there was compliance of

the provisions by the defendant bank before the Learned CMM as mandated under Section 14(1) of the SARFAESI Act.

25. As per Section 14(1) of the SARFAESI Act, on a request being made by the by the secured creditor, the Chief Metropolitan Magistrate or the District Magistrate as the case be take possession of such asset and documents relating thereto and forward such assets and documents to the secured creditor. The financial institutions are to declare under the affidavit the aggregate sum of financial assistance and dues payable as on the date of the application. It should be averred that the borrower / guarantor having created security interest over the property and that the borrower had committed default; upon such default the account must have been classified as NPA. It is also mandatory to aver in the affidavit regarding the issuance of demand notice, the reply thereof and the response of the secured creditor and that the borrower had not made any repayment and therefore entitled to take possession and that the other provisions of the Act have been complied.

26. This Tribunal is aware of the Ruling of the Hon'ble Supreme Court **in "Authorised Officer, Indian Bank Vs. Vishalakshi and another CA No.6295/2015 disposed on 23.09.2019"** holding that the spirit of Section 14 of the SARFAESI Act is only a procedural step. It is purely an administrative order and no adjudication is involved. The orders of the Ld. CMM / DM is only an aid to the proceedings initiated u/s.13(4) of the Act.

27. It is only to be looked into whether the provision of section 14(1) of the Act is complied or not. From the impugned order it is seen the necessary details to be furnished u/s.14(1) of the Act has been complied.

28. From the impugned order, it is seen that the necessary details to be furnished under Section 14(1) of the Act have been complied with. The affidavit filed by the Authorised Officer contains the particulars relating to the financial assistance availed by the borrowers, the security interest created over the secured asset, the default committed by the borrowers, classification of the account as NPA, issuance of demand notice and possession notice and the failure on the part of the borrowers to discharge the liability. The description of the secured asset and the outstanding liability have also been furnished. Therefore, this Tribunal finds that the statutory requirements contemplated under Section 14(1) of the SARFAESI Act have been substantially complied with by the respondent bank.

29. The contention of the applicants that the amount due mentioned in the application filed under Section 14 is not correct and that the respondent bank has charged exorbitant interest cannot be adjudicated upon in the present proceedings. The proceedings under Section 14 are not intended to determine the correctness of the quantum of dues or the legality of the contractual rate of interest. The jurisdiction of the Magistrate under Section 14 is confined to taking possession of the

secured asset and forwarding the same to the secured creditor upon satisfaction of the statutory requirements. Hence, the said contention does not render the order passed by the Learned Chief Judicial Magistrate illegal.

30. The applicants have further contended that the demand notice under Section 13(2) and the possession notice under Section 13(4) were not duly served upon them. However, the respondent bank has produced the demand notice dated 03.09.2021 along with postal acknowledgements, possession notice dated 10.11.2021 along with postal acknowledgement, publication of possession notice in newspapers dated 17.11.2021, proof of affixture and CERSAI report. The said documents form part of the record placed before this Tribunal.

31. The other contentions of the applicants regarding violation of Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 and description of the properties in sale notice is not proper and the 1st respondent has failed to comply with Section 26D of the SARFAESI Act have bent aken up for consideration in the final order passed in SA No.531 of 2024 and this Tribunal by its order dated 21.05.2026 has negative the said contentions. Even otherwise, the scope of the present proceedings is limited to determining whether the statutory requirements for invoking Section 14 were complied with.

32. The contention that the Learned Chief Judicial Magistrate has failed to examine all the factual and legal aspects raised by the applicants is also without merit. The jurisdiction under Section 14 does not contemplate an adjudication of all disputed questions between the parties. The Magistrate is required to satisfy himself regarding the compliance of the requirements prescribed under Section 14(1) and thereafter assist the secured creditor in obtaining possession. The impugned order has to be tested within that limited statutory framework.

33. The reliance placed by the 2nd respondent/auction purchaser upon the decisions cited in the written submissions need not be examined in detail for deciding the present SA, since the principal question before this Tribunal is confined to the validity of the order dated 18.09.2024 passed under Section 14 of the Act. The questions relating to the validity of the sale conducted on 16.10.2023 and the rights claimed by the auction purchaser has already been considered in SA No.531 of 2023 and the Tribunal has upheld the sale and the subsequent actions of the 1st respondent bank.

34. On an overall consideration of the pleadings, documents and submissions made by the parties, this Tribunal finds that the respondent bank had placed the necessary particulars before the Learned Chief Judicial Magistrate and that the requirements contemplated under Section 14(1) of the SARFAESI Act had been complied with. The applicants have failed to establish any jurisdictional error, illegality,

material irregularity or violation of the mandatory requirements of Section 14 so as to render the impugned order void in law. Accordingly, Point for Consideration is answered against the applicants.

35. Further, the applicants have not urged any grounds with regard to non-compliance of provisions under Section 14(1) of the SARFAESI Act by the secured creditor.

36. Therefore, in the absence of any allegations regarding non-compliance of the provisions of Section 14(1) of the Act and documentary evidence produced by the defendant bank, this Tribunal is unable to find any illegality, impropriety or otherwise to set aside the impugned order. Hence the following:

ORDER

(i) The SA stands dismissed. The orders of the Ld. Chief Judicial Magistrate, Kallakurichi dated 18.09.2024 made in Crl. M.P. No.111 of 2024 and the subsequent actions taken by the Ld. Advocate Commissioner are hereby affirmed.

(ii) All other pending IAs thus stand disposed of. Parties to bear their own costs.

(ii) A copy of this order be communicated to the parties concerned.

Sd/-
(SHARANG DHAR UPADHYAY)
PRESIDING OFFICER
DRT-II, CHENNAI

(Dictated to PS, who typed in the system directly, corrected, signed and pronounced by me in Open Court, on this 28th day of September, 2026)