IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 21st day of September, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

I.A. Nos.1431 of 2026 & 1432 of 2026
in
T.A. No.49 of 2023

1. M/s. Peri Educational and Charitable Trust
Represented by its Chairman
Mr. Saravanan Periyasamy
Having office at No.1, Mannivakkam,
Near West Tambaram,
Chennai – 600 048.

2. Mr. Saravanan Periyasamy
S/o. Mr. K. Periyasamy,
Chairman of M/s. Peri Educational and Charitable Trust
No.1, Mannivakkam, Near West Tambaram,
Chennai-600 048

3. Mr. K. Periyasamy
S/o. Late Karuppanna Gounder
Trustee M/s. Peri Educational and Charitable Trust
No.1, Mannivakkam, Near West Tambaram,
Chennai-600 048

4. Mrs. P. Pappathi,
W/o. K. Periyasamy
Trustee M/s. Peri Educational and Charitable Trust
No.1, Mannivakkam, Near West Tambaram,
Chennai -600 048

...Petitioners / Defendants 1 to 4

-Vs.-

1. Indian Overseas Bank
Large Advances Branch
Sipcot Industrial Park, Irungattukottai,
Sriperumpudur,
Kanchipuram – 602 117 ...1st Respondent / Applicant Bank

2. M/s. Peri Software Solutions Private Limited
Represented by its Managing Director
Mr. K. Saravanan Periasamy
Now having office at No.1, Mannivakkam,
Near West Tambaram,
Chennai – 600 048

….2nd respondent / 7th Defendant

Counsels on record / appeared:

Counsel for Petitioners : M/s TKM Sai Krishnan

Counsel for 1st Respondent : Sh. Y.T. Arvind Gosh

: - ORDER ON IA Nos. 1431/26 & 1432/26 - :

The defendants No.1 to 4 have filed IA No.1431/2026, a petition under Section 5 of Limitation Act praying to condone delay of 1471 days in filing written statement and IA No.1432/2026 to recall the order dated 19.05.2022 and consequently take the written statement on record and provide an opportunity to contest the case on merits.

Brief averments of petition:

2. The petitioners filed affidavit submitting therein that the 1st petitioner is a Public Trust, and the petitioners 2 to 4 are Chairman and Trustees of the 1st Petitioner respectively. It is further submitted that the Petitioners have received the summons from this Tribunal and entered appearance through their counsel. Due to covid pandemic situation, the petitioners were not in a position to instruct the counsel for filing written statement, thereafter the health condition of the 2nd Petitioner was severely affected and due to which he could not instruct the counsel for preparing the written statement.

3. It is the further case of the petitioners that the 2nd petitioner suffered a stroke during the year 2022 due to the tremendous pressure caused by the respondent bank. Thereafter, the Respondent bank kept on issuing notices under the provisions of SARFAESI Act and the petitioners were constrained to challenge the SARFAESI measures initiated by the respondent bank before this tribunal, due to immediate threat of sale of the properties by illegal means by the respondent bank, the petitioners could not concentrate much on the OA proceedings. During the last week of March 2026 when the petitioners contacted their counsel, there was no response whatsoever from the counsel. Left with no other option left the petitioners decided to change their counsel. The petitioners obtained change of vakalat from the erstwhile counsel on 01.04.2026.

4. The Petitioners submit that the newly appointed counsel Mr. T.K.M. Saikrishnan upon perusal of the Court records informed the petitioners that, the chance of filing the written statement was closed by this Tribunal as early as on 19.05.2022. The written statement could not be filed within the stipulated time frame only due to the bona fide reason stated above. The petitioners submit that, great prejudice will be caused if the written statement is not taken on record. The 1st respondent bank by suppression of material facts filed the Original Application without obtaining permission from the Civil Court to institute the suit against the Public Trust. The 1st petitioner submits that, the 1st respondent bank by invoking the provisions of SARFAESI Act illegally sold the Public Trust Properties to its desired

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Person for a throw away price and clandestinely released the original title deeds of the trust property by swearing a false affidavit before this Hon'ble Tribunal which tantamount to perjury. The respondent Bank has released the Original Title deeds of the item 1 schedule mentioned property by swearing a false affidavit and played fraud on this Tribunal and also on the Petitioners, the present petition is filed within the limitation from the date of knowledge of fraud.

5. The petitioners further submit that there is no requirement to file a separate application for condonation of delay when the Petitioners already elaborated the sufficient cause and the reasons for delay in the I.A.Diary.No. 1716 of 2026. However, the same is filed as abundant caution. Unless the order dated 19.05.2022 is set aside and the written statement is taken on record these crucial facts will not come into light. Hence it is just and necessary to re-open / recall the order dated 19.05.2022, take the written statement on record and provide an opportunity to the petitioners / defendants 1 to 4 to contest the case on merits and thus render justice.

6. It is pertinent to mention here that the Respondent bank has released the property documents during the pendency of the OA without any basis to facilitate the auction purchaser identified by the respondent bank and acted in collusion with the buyer and undervalued and sold the valuable properties for a throw away price, fraud has been committed by

the respondent bank, unless the opportunity is granted, these crucial facts will go un-addressed and hence it is just and necessary to set aside the order dated 19.05.2022. The respondent bank is legally bound to prove the debt if any beyond the reasonable doubt by producing the documentary evidence, in the instant case the respondent bank has capitalized the penal interest and charged exorbitant interest rates when compared to the agreed rate of interest, if the written statement was not taken on record the respondent bank will be benefitted by unjust enrichment.

7. The petitioner further submits that it is also vital to mention here that, this Tribunal vide order dated 12.12.2023 directed to applicant bank not to charge interest from the date of default till the date of verification of the proof affidavit. In this scenario, the respondent bank to its whims and fancies claimed huge amounts as due and payable and issued the notices and initiated Sarfaesi measures in violation of the orders passed by this Tribunal. The amount was not crystallized before issuance of the measures under the SARFAESI Act and the whooping amounts claimed by the respondent bank is illegal and the same cannot be termed as legally enforceable debt. The Petitioner submits that there is a delay of 1476 days occurred in filing the Written statement, the delay is neither wilful nor wanton but only due to the Bonafide reasons stated supra. The Petitioners thus prayed to take the written statement on record and provide an opportunity to contest the case on merits and thus render justice.

8. It is submitted that the Meritorious case shall not be thrown away due to delay, the Hon'ble Apex Court and various high courts in plethora of judgments have held that, meritorious cases shall not be thrown out for due to delay and moreover the Petitioner has mentioned sufficient cause for the delay in filing the written statement, the delay in filing the written statement is neither wilful not wanton. Great prejudice would be caused to the petitioners if this Petition is not allowed on the other hand no loss or hardship will be caused to the respondent bank if this petition is allowed. The balance of convenience squarely lies in favour of the petitioners.

Brief averments of counter by 1st respondent bank:

9. The respondent bank filed counter in IA denying the averments in the petition, except those are specifically admitted therein. It is submitted that the petition filed to re-open/recall the order dated 19.05.2022 and consequently take the written statement on record is not maintainable either in law or on facts.

10. The averments contained in 2 to 3 are admitted, however the further averments made in para 4 that the non filing of the Written Statement is due to any covid pandemic situations, health condition are denied as totally false and puts the Petitioners to strict proof of the same. It is submitted that the further allegations that due to rigorous recovery actions taken by the Respondent Bank under SARFAESI Act, the Petitioners were focusing on remedies under SARFAESI Act and could not concentrate on the OA

Proceedings and that last week of March, 2026 that there was no communication with the earlier Counsel, which necessitated the Petitioners to change their Counsel and that they later on came to know through their present Counsel that their chance of filing Written Statement was closed as early as on 19.05.2022 and the non filing of written statement within time frame is due to any Bonafide reasons are denied as totally false, unsustainable and without any basis.

11. It is submitted that the allegations that a prior permission ought to have been obtained from Civil Court to institute the suit against the Public Trust is denied as misleading and untenable in law. The further allegations that as if the Respondent Bank had illegally sold the public trust properties and committed any perjury are denied as totally unwarranted, untenable and without any basis. The allegations made in para 5 that this Respondent Bank had released the property documents during the pendency of the OA/TA to the Auction Purchaser and that there was any collusion with the buyer, undervaluation, commission of fraud are denied as totally unwarranted, untenable and without any basis.

12. The respondent bank submits that the further allegations made in para 6 that there is any capitalisation of interest, charging exorbitant interest rates against the contractual rate of interest and there will be unjust enrichment for the bank if the written statement is not taken record and that there was any violation of this Tribunal's Order and that there is

a huge claims and that amount was not crystalized before measures under SARFAESI Act was taken and the claim cannot be termed as legally enforceable debt are all denied as totally false, frivolous, untenable and without any basis. The averments made in para 7 that there would be a great prejudice to the Petitioners, if the Order was not set aside and that there is no hardship to the Respondent Bank and that any balance of convenience is in favour of the petitioners are denied as totally false and without any basis.

13. It is further submitted that the Petitioners having received the Summons from this Tribunal and having entered appearance through Counsel, have failed to file their Written Statement within time and hence this Tribunal was pleased to close the chance of filing the same vide Order dated 19.05.2022. The proceedings under Recovery of Debts and Bankruptcy Act, 1996 are time bound proceedings and enacted to facilitate the expeditious disposal of the claims of the banks without causing any loss to the public money. None of the averments made in the affidavit, satisfies the grounds to recall the order dated 19.05.2022 or to afford an opportunity to the Petitioners to file their Written Statement.

14. The respondent bank submits that the Petitioners willingly and wantonly failed to file their Written Statement only to prolong and procrastinate the proceedings and to cause loss to the public money. The Auction Sale of the Secured Assets are transparent, genuine and strictly

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followed as per the Rules of the SARFAESI Act and SIE Rules. The 1st Respondent Bank being a Nationalised Bank have no intention to violate any provisions of law to benefit anybody and only interested in protecting and safeguarding the public funds. The Petitioners have no bonafide reasons or satisfying reasons stated in their affidavit and approached this Tribunal with unclean hands and thus not entitled for any relief. There is no balance of convenience in favour of the Petitioners and hence it is prayed that the Petition is liable to be dismissed with exemplary costs.

Heard the submissions of both counsels on IA and perused the records.

15. The bank has filed OA before DRT-II, Chennai for recovery of a sum of Rs.45,02,13,086.54p from the Defendants 1 to 7, along with interest and cost till the date of realization. After filling OA, the Tribunal ordered summons to Defendants 1 to 7, returnable by 21.02.2020.

16. The bank has taken summons as directed by the Tribunal. Summons sent to Defendant No.1 and 7, returned unserved with postal endorsement as 'left', while summons to Defendant Nos. 2 to 6 were duly served. Thereafter, due to onset of Pandemic Covid-19, the cases were adjourned by notification on 04.05.2020, 09.07.2020, 17.09.2020, 27.11.2020, 16.02.2021, 27.04.2021, 21.06.2021, 12.08.2021 and to 11.10.2021 respectively.

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17. When the case was taken up on 11.10.2021, applicant bank was directed to effect paper publication in newspapers, as the summons in respect of D-1 and D-7 was returned unserved and the case was adjourned to 26.11.2021. On 26.11.2021, the applicant bank filed proof of paper publication. Defendants 1 to 7 were represented by counsel Mr. D. Durairaj, who undertook to file vakalath and the case was posted to 13.12.2021. On 13.12.2021 and 18.03.2022, the case was adjourned by notification to 18.03.2022. On 18.03.2022, counsel for defendants 1 to 7 sought time for filing Written Statement and the case was adjourned to 18.04.2022. On 18.04.2022, there was neither representation for defendants 1 to 7 nor written statement filed. Hence the case was posted before the Bench to 19.05.2022.

18. On 19.05.2022, although counsel for defendants 1 to 7 was present, as written statement was not filed on behalf of defendants, opportunity to file written statement by defendants were closed.

19. In the affidavit filed along with the petition, it is contended by the Petitioners that the 2nd Petitioner / 2nd defendant suffered a stroke in the year 2022 due to the stress and pressure caused by the Respondent Bank and that, thereafter, they were preoccupied with challenging the SARFAESI measures initiated by the Bank. They further submit that, during the last week of March 2026, they were unable to contact their erstwhile counsel and consequently obtained change of Vakalat on 01.04.2026. The newly

appointed counsel, on perusal of the records, informed them that the right to file the Written Statement had been closed by this Tribunal on 19.05.2022. The Petitioners contend that the Written Statement could not be filed earlier for bonafide reasons and that serious prejudice would be caused if the same is not taken on record.

20. The Petitioners further allege that the Respondent Bank suppressed material facts while filing the Original Application, including its alleged failure to obtain requisite permission for proceeding against the Public Trust, and that the Bank had illegally sold the Trust properties and released the original title deeds on the basis of a false affidavit. They contend that such acts amount to fraud and perjury and submit that the present Petition has been filed within limitation from the date of knowledge of the alleged fraud.

21. It is contended by the petitioner that the defence raised in the Written Statement involves substantial issues requiring adjudication on merits, including the correctness of the amount claimed by the Respondent Bank and the legality of the measures taken by it. The delay of 1,476 days in filing the Written Statement is stated to be neither wilful nor wanton, but due to bonafide reasons explained in the petition. It is further submitted that refusal to take the Written Statement on record would cause serious prejudice to the Petitioner, whereas no corresponding prejudice would be caused to the Respondent Bank. The Petitioner,

therefore, seeks condonation of delay and an opportunity to contest the OA on merits in the interest of justice.

22. Whereas the Respondent Bank, in its counter, denied the allegations made by the Petitioners and opposed the prayer for recall of the order dated 19.05.2022 and for taking the Written Statement on record. It is contended that, despite service of summons and appearance through counsel, the Petitioners failed to file their Written Statement within the prescribed time and have not shown sufficient or bonafide cause for the inordinate delay of 1476 days. The allegations regarding the SARFAESI measures, auction sale, collusion, undervaluation, release of documents, computation of interest and violation of the Tribunal's orders were denied. The Bank further submitted that the proceedings under RDB Act are time bound proceedings and enacted to facilitate the expeditious disposal of the claims of the banks without causing any loss to the public money. The auction sale of the secured assets are transparent, genuine and strictly followed as per the Rules of the SARFAESI Act and SIE Rules. The present petition is only an attempt to prolong the proceedings. Hence, the Bank prayed for dismissal of the petition with costs.

23. In the instant case, upon receipt of summons, defendants have entered appearance and filed their vakalat on 26.11.2021. During the hearing on 18.03.2022, it was reported by Ld. Counsel for defendants that they have received copy of OA a week ago and hence sought time for filing

Written Statement. Considering the said request, the Tribunal had granted time. However, despite availing substantial adjournments, as defendants did not file written statement, chance was closed on 19.05.2022. Thereafter, the matter got transferred to this Tribunal at the stage of filing Proof Affidavit and Documents by the applicant bank due to bifurcation of jurisdiction and was re-numbered as TA No.49/2023.

24. After re-numbering, the case was listed on 05.07.2023, 21.09.2023, 31.10.2023 and 12.12.2023 for processing of PA and OD filed by applicant bank. As the Applicant Bank failed to process the PA and OD despite the said adjournments, this Tribunal, vide proceedings dated 12.12.2023, directed that the Applicant Bank will not be entitled to claim interest from the date of default till the date of compliance.

25. Thereafter, the applicant bank filed part satisfaction memo reporting sale of Item No.2 of Schedule A to the OA, which was accordingly recorded vide proceedings dated 10.09.2024. At the stage of arguments of the case, the defendants 1 to 4 have filed the present petitions praying to condone delay of 1471 days and to re-open / recall the order dated 19.05.2022, closing the chance of filing written statement.

26. The short question which arises for consideration is whether, in the peculiar facts and circumstances of the present case, the Petitioners have made out sufficient cause warranting condonation of the delay of 1476 days in filing the Written Statement. For deciding the issue involved in the

present application, the provisions of Section 19(5)(i) of the Recovery of Debts and Bankruptcy Act, 1993, are relevant and are extracted hereunder:"

> *"(i) the defendant shall within a period of thirty days from the date of service of summons, present a written statement of his defence including claim for set-off under sub-section (6) or a counter-claim under sub-section (8), if any, and such written statement shall be accompanied with original documents or true copies thereof with the leave of the Tribunal, relied on by the defendant in his defence:*
>
> *PROVIDED that where the defendant fails to file the written statement within the said period of thirty days, the Presiding Officer may, in exceptional cases and in special circumstances to be recorded in writing, extend the said period by such further period not exceeding fifteen days to file the written statement of his defence"*

27. Thus, a reading of S.19(5) clearly shows that the written statement/ counter-claim is required to be filed mandatorily within 30 days from the date of service of summons. Another period of 15 days maximum can be granted, only in exceptional cases and in special circumstances, which are to be found and recorded in writing by the Presiding Officer while granting extension by up to 15 days. These strict timelines of 30 days, and 15 days as mandated in section 19(5) are in consonance with the objective sought to be achieved by the Recovery of Debts and Bankruptcy Act, 1993.

28. The petitioners have filed a Memo along with the medical reports of the 2nd petitioner / 2nd defendant pertaining to the year 2021, in support of the contentions raised in the IA. The said records certify that the 2nd petitioner had suffered a mild cerebrovascular accident and was undergoing medical treatment. The records produced before this Tribunal further indicate that he continued to remain under treatment up to the year 2024. However, no satisfactory or plausible explanation has been offered as to why the other petitioners failed to prosecute the matter during the said period, particularly when the medical condition pleaded pertains only to the 2nd petitioner. The illness of the 2nd petitioner, by itself, therefore, does not satisfactorily explain the failure on the part of the remaining petitioners to prosecute the case.

29. In the recent judgment of Hon'ble DRAT, Delhi in the matter of ***Mahua Co-operative Cold Storage Ltd. v. National Co operative Development Corporation - Misc. Appeal No. 175/2026 (Arising out of O.A. No. 650/2023) - reported in [(2026) ibclaw.in 189 DRAT]*** has held that

> *"Where Section 19(5)(i) of the RDB Act limits filing of written statement to 30 days extendable by not more than 15 days in exceptional cases, the Tribunal has no jurisdiction to accept a written statement filed beyond 45 days and refusal to condone 29 days' delay beyond that period is liable to be upheld."*

30. In another recent judgment of Hon'ble DRAT, Chennai in the matter of ***Ghishulal Kothari and Ors. v. Union Bank of India and Ors.,*** ***(2026) ibclaw.in 354 DRAT*** it is held that

> *"even if delay in filing the appeal were condoned, the written statement could not be accepted beyond 45 days – application for condonation of delay rightly not entertainable in substance"*

31. The strict timelines for filing written statement and counter claim is because of the reason that DRT is adjudicating on disputes involving huge amounts of public money, and if any delay is permitted in the adjudication of those disputes, the same will result in locking up of huge amounts of public money which further would prevent utilization and recycling of those funds for the development of the country.

32. In the present matter, the Defendants, despite due service of summons and entering appearance, have not chosen to contest the proceedings within the stipulated time by filing written statement. The records disclose that sufficient opportunity was afforded to the Defendants to appear before this Tribunal. In the absence of any appearance or representation on their behalf, the case was proceeded with in accordance with law. Hence, the plea of the Petitioners cannot be accepted in the absence of sufficient cause explaining the failure to appear, when they have been actively prosecuting the SAs challenging the measures of the bank under SARFAESI Act.

33. For the foregoing reasons the IA filed to condone delay of 1471 days in filing written statement stands dismissed. Consequently, IA No.1432/2026 to recall the order dated 19.05.2022 also stands dismissed. There shall be no order as to costs.

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

(Dictated to PS, transcribed by her, corrected, signed and pronounced by me on this the 21st day of September, 2026)

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