IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 28th day of September, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

IA No.2218 of 2026

In

SA No. 652 of 2026

Mumthaj Begam. M
W/o Abdul Salam,
No.11, Pidariyar Koil Street 2nd Lane,
Seven Wells, Chennai – 600 001.

…Applicant

-Vs-

ICICI Bank Ltd.
Corp. Office: ICICI Bank Towers,
Bandra-Kurla Complex, Mumbai – 400 051.

Regional Office: Plot No.24,
South Phase, Industrial Estate,
Ambattur, Chennai – 600 058.
Rep. by its Authorized Officer,

…Respondent

Counsels on record / appeared:

Counsel for Applicant	:	Mr. Arun Kumar A
Counsel for Respondent	:	M/s. Acuity Law Associates

ORDER ON IA No.2218 of 2026 In SA 652/2026

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].

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2. The applicant has filed an IA No.2218 of 2026 to condone the delay of 12 days in filing the present SA along with an affidavit. It is submitted that the present SA is filed challenging the Section 14 order dated 22.07.2026 in Crl.M.P.No.5542 of 2026 before the Ld. CMM, Egmore to take physical possession of the property.

3. It is submitted that the respondent granted Home loan of Rs.26,09,151/- vide A/c. No.LBCHE00005871060 with Top Up Loan of Rs.23,53,827/- and additional loan of Rs.2,78,787/- vide sanction letter dated 07.12.2021. The applicant's son Mr. Mohammed Dawood Khan was arrested in Crime No.78 of 2023 and Crime No.268 of 2023 on the file of Inspector of Police, Central Crime Branch, Vepery, Chennai. Therefore, the applicant has faced unforeseen expenditure and defaulted in the repayments.

4. Further, the applicant is residing at Puducherry and the notices issued by the bank were not received and the applicant is unaware of the classification of loan account as NPA on 03.11.2024, Demand Notice dated 16.08.2025, symbolic possession taken on 18.02.2026, obtained Section 14 order on 22.07.2026 in Crl.M.P.No.5542 of 2026. Hence, the applicant is aware of the symbolic possession notice dated 18.02.2026, Vacant notice dated 18.02.2026 and CMM order dated 22.07.2026 only during the last week of August 2026. It is contended that the total outstanding amount claimed by the respondent bank is incorrect and statement of accounts is not furnished by the respondent bank. The Ld. Magistrate has appointed

the Advocate Commissioner to take the physical possession of the property along with the assistance of Station House Officer, K-9, TVK Nagar Police Station.

5. The applicant visited the respondent bank during last week of August 2026 with prospective buyer who intends to clear the entire outstanding amount and to purchase the schedule property. Further, the applicant intends to pay 10% of the outstanding due amount and prays for interim stay in Section 14 order dated 22.07.2026 in Crl.M.P.No.5542 of 2026 before the Hon'ble CMM, Egmore and to condone the delay of 12 days in filing the present SA.

6. The respondent bank has filed counter and submits that the applicant was sanctioned a sum of Rs.26,09,151/- vide A/c. No.LBCHE00005871060 with Top up loan of Rs.23,53,827/- and additional loan of Rs.2,78,787/- under Sanction letter dated 07.12.2021, and applicant executed necessary loan documents, agreed to repay the loan amount with interest and also created equitable mortgage by way of creating collateral security in favor of the respondent bank.

7. It is submitted that the applicant has not filed any documents to evidence that the date of knowledge is only in the end of August 2026. The applicant was aware of the outstanding amount due and also visited the respondent bank for statement of the loan, settlement of loan account with prospective purchaser which is admitted by the applicant herein. The respondent bank has classified the loan account as NPA on 03.11.2024,

Demand notice was issued on 16.08.2025, Symbolic Possession was taken on 18.02.2026 and obtained Section 14 order on 22.07.2026 in Crl.M.P.No.5542 of 2026 from Ld. CMM, Egmore which were taken in accordance with the SARFAESI Act.

8. The respondent bank relies on the following Judgments:

i. *Hon'ble High Court of Kerela in K.P Jayan Vs. Hong Kong & Shanghai Banking Corporation Ltd and Ors. in Writ Appeal No.1797 of 2009 in W.P.(C) No.22192 of 2007 dated 31.08.2015.*

ii. *Hon'ble Supreme Court in Bank of Baroda Vs. Parasaadilal Tursiram Sheetgrah Pvt. Ltd.*

iii. *Hon'ble Supreme Court in Lingeswaran Vs. Thirunagalingam*

9. The applicant has failed to establish the sufficient cause for the delay in filing the present application and the respondent bank has followed all the measures as contemplated under the SARFAESI Act. Hence, the respondent bank prays to dismiss the present SA.

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

10. The applicant has filed the present SA to set aside the Section 14 order dated 22.07.2026 in Crl.M.P.No.5542 of 2026 before the Ld. CMM, Egmore and filed IA No.2218 of 2026 to condone the delay of 12 days in filing the present SA.

11. Evidently, the present SA is filed on 17.09.2026 and there is no justifiable reason given to condone the delay of each days. The applicant

does not dispute the availing of the credit facilities, mortgage of the property, issuance of the Demand notice and Possession notice, however the applicant has failed to challenge the Section 13(4) Possession notice within the period of 45 days as required under Section 17(1) of the Act. Evidently, the applicant has filed an IA No.2218/2026 a petition to condone the delay in filing the present SA without any justifiable reasons nor on any equitable grounds to condone the delay. Further, the Tribunal cannot condone the delay in filing the application under Section 17(1) of the Act and relies on the Judgment of Hon'ble DRAT Chennai in the case title **"Smt. M. Subathra W/o Mohan. Vs. State Bank of India"** as Para 14 is reproduced here under:

> *14. In the said circumstances, if an application under Section 5 of Limitation Act is entertained in an Application filed under Section 17 of SARFAESI Act, 2002, it would detail the very purpose of the SARFAESI Act, 2002. Moreover, it is seen that no sufficient, acceptable and satisfactory reason is given for delay of 278 days in filing the application in the affidavit filed in support of the petition. In the said circumstances, this Tribunal finds that order dismissing the application filed under Section 5 of the Limitation Act, is just and proper and it requires no interference*.

12. Further, the Tribunal is posed with the question whether the Tribunal can condone the delay under Section 17 of the SARFAESI Act?

For appreciation of the facts Section 17(1) is extracted as under: -

Section 17(1):

> ***Application against measures to recover secured debts*** *(1) Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorized officer under this Chapter, [may make an application along with such fee, as may be prescribed,] to the Debts Recovery Tribunal having jurisdiction in the matter within forty-five days from the date on which such measures had been taken:*
>
> *[Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.]*
>
> *[Explanation. - For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under this sub-section (1) of section.17.]*

13. A reading of the above provision it is palpable that there is no provision made by the Parliament for condonation of delay in approaching the DRT against the measures, no matter whatever be the cause and howsoever justifiable it may sound. Unless power to condone delay is legislatively granted expressly or by inference, the Tribunal cannot condone

delay. It is the indication of Parliament that one who wants to have redressal must knock the doors of DRT within 45 days and subsequently those doors should permanently stand closed. In other words, law does not come to the aid of those who are sleepy & late.

14. Thus, it is clear that any person aggrieved by any measures under Section 13[4] is required to approach the Tribunal under Section 17 within 45 days from the date of the measure. Evidently, the present SA challenging Section 14 order dated 22.07.2026 in Crl.M.P.No.5542 of 2026 by the Ld. CMM, Egmore is not filed within the period of 45 days and the same is filed with a delay of 12 days.

15. This view of the Tribunal is confirmed by the judgement of the Hon'ble Supreme Court in the case titled ***Bank of Baroda – Vs.- Parasaadilal Tursiram Sheetgrah Pvt. Ltd, reported in 2022 Live law (SC) 671***, at para 12, observed that a time limit of 45 days for filing an application under Section 17 of SARFAESI Act is provided for quick enforcement of the security is as under:

> "*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. In Transcore v. Union of India and Anr. this Court held that the SARFAESI Act is enacted for quick enforcement of the security. It is unfortunate that proceedings where a property that has been brought to sale and*

third-party rights created under the provisions of the Act, have remained inconclusive even after a decade."

16. Further the Hon'ble Calcutta High Court in ***Akshat Commercial Pvt Ltd. Vs. Kalpana Chakroborty*** has taken view that Section 17 is mandatory and therefore the question of condoning the delay does not arise. If the Parliament intended that DRT should have power to condone delay, it would have enacted a provision like Section 5 of Limitation Act to SAFAESI Act. As it consciously chosen not to do it clearly emphasis the purpose of the SARFAESI Act.

17. The Tribunal is of the view that DRT has no power to condone delay in an application under Section 17 of the Act, as it is a special law for speedy recovery of money due to bank in enforcing the security available to them is reinforced at para 65 of the judgement of the Hon'ble Supreme Court in ***Celir LLP Vs. Bafna Motors [Mumbai][P] Ltd.,*** reported in [2024] 2 SCC 1 at para 65 which is reproduced here under:

"The SARFAESI Act is a special law containing an overriding clause in comparison to any other law in force. The SARFAESI Act is a special law of recovery with a paradigm shift that permits expeditions recovery for the banks and the financial institutions without intervention of Courts. If the general law is allowed to govern in the manner as sought to be argued by the borrowers, it will defeat the very object and purpose…."

18. Therefore, it is obvious that when a special legislation grants a right of action it is subject to certain conditions and create a forum for its implementation, that right becomes exercisable on satisfying such conditions and not otherwise and Limitation period is one such condition.

19. It is a settled legal proposition that law of limitation may harshly affect a particular party, but it must be applied with all its rigor when the statute so prescribes. The Tribunal has no power to extend the period of limitation on equitable grounds and has no power to ignore that provision to relieve what it considers a distress resulting from its operation as per the Judgement of Hon'ble Supreme Court in the matter of ***P.K. Ramachandran vs. State of Kerala,*** *reported in (1997) 7 SCC 556,* the Hon'ble Supreme Court has held thus:-

> *"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds".*

Hence, the legal maxim "duralexsedlex" which means "the law is hard but it is the law", stands attracted in such a situation.

20. The question whether the Debt Recovery Tribunal can entertain an application under Section 17 of the Act after 45 days of measure referred to in sub section [4] of Section 13 is no more res integra.

21. The Hon'ble Division Bench of High Court of Kerala in Writ Appeal No.1797 of 2009 in W.P.(C) No.22192 of 2007 in the case titled ***K.P Jayan vs. Hong Kong & Shanghai Banking Corporation Ltd and others*** decided on 31.08.2015 had categorically held that the power to condone delay in entertaining an application under Section 17 of the SARFAESI Act is not conferred on the Debts Recovery Tribunal. It further held that the Debts Recovery Tribunal cannot consider an application for condonation of delay under Section 5 of the Limitation Act in an application under Section 17 of the SARFAESI Act. The relevant paras is extracted as under:

> *"7. Referring to these provisions the contention urged before us is that since section 24 of the RDB Act makes Limitation Act applicable and as the DRT constituted under the RDB Act is conferred with jurisdiction under section 17, Limitation Act governs applications made in a proceedings under section 17 also. We are unable to accept this contention. Both the RDB Act and the SARFAESI Act are independent enactments, although certain provisions of the RDB Act are made applicable in respect of the proceedings under the SARFAESI Act also. However, that does not mean that every provision of the RDB Act would apply to every proceedings initiated under the SARFAESI Act. In so far as this case is concerned, proceedings were initiated under SARFAESI Act and in view of the provisions contained in section 17 conferring jurisdiction on the DRT constituted under RDB Act application is made by the appellant*

before the DRT. That does not mean that provisions of section 24 of the RDB Act governing the proceedings taken thereunder would get automatically attracted to such proceedings before the DRT. Therefore, the contention raised relying on section 24 in so far as this case is concerned is only to be rejected and we do so. This is further clear from section 36 of the SARFAESI Act, which confines the applicability of the Limitation Act to measures under section 13(4) of the said Act."

22. Further, the Hon'ble High Court of Kerala has also considered the issue in the case titled ***The Authorised Officer, Indian Bank Vs. K.J. George,*** order dated 02.11.2020 has placed reliance on ***K.P. Jayan V. Hong Kong & Shanghai Banking Corporation*** and has held that DRT has no power to condone the delay under Section 17 of the Act.

23. As per Section 17 of the SARFAESI Act, an application against measures to recover secured debts, must be filed before the Debts Recovery Tribunal within forty-five days from the date on which such measure had been taken. It further observed that *"The reason for providing a time limit of 45 days for filing an application under Section held that the SARFAESI Act is enacted for quick enforcement of the security, which can easily be inferred from the purpose and object of the enactment.* In *Transcore v. Union of India and Anr*, this Court held that the SARFAESI Act is enacted for quick enforcement of the security.

24. Additionally in the instant matter the applicants have failed to make a case to condone each day's delay by producing the medical records in support of their case without any justifiable reasons. However, the delay cannot be condoned on equitable grounds and in support of its view, the reliance is placed on the Judgement of Hon'ble Supreme Court in the case titled ***Lingeswaran Vs. Thirunagalingam*** where it is observed that an application for condonation of delay has to be dismissed, if it is found that the delay is not properly explained and that the period of limitation cannot be extended on equitable ground. Otherwise, it would be giving a premium to a person who fails to explain the delay and who is guilty of delay and laches. The court also observed *"The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same.*

25. The Hon'ble Apex Court also noted the following observations made in ***Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai***, (2012) 5 SCC 157, while dismissing the SLP:

> *"The law of limitation is founded on public policy. The limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the court for vindication of their rights without unreasonable delay. The idea underlying the concept of limitation is that every remedy should remain alive only till the expiry of the period fixed by the legislature.*

At the same time, the courts are empowered to condone the delay provided that sufficient cause is shown by the applicant for not availing the remedy within the prescribed period of limitation."

26. The Tribunal also places reliance on the judgement of the ***Hon'ble High Court of Karnataka at Bengaluru*** in the case of ***Kailasam P – Vs.- The Karnataka Bank Limited, Rep. by its Authorised Officer*** in ***Writ Petition No.11273 of 2024 (GM-DRT)*** has held that:

"law of Limitation fixes upon a particular period within which a party is entitled to institute legal proceedings and if he fails to do so, ordinarily the cause of action dies subject to just all exceptions. Law of Limitation is statute of repose. True it is that any welfare State like ours is bound in good faith to furnish its citizens all needful legal remedy however it is not bound to keep its Courts and Tribunals open ad infinitum. If an aggrieved person neglects or refuses to apply for redress within the prescribed period of limitation, his claim is lost in the lapse of time."

27. In other words, the statutory time of 45 days provided under Section 17(1) of the SARFEASI Act is mandatory and no discretion has been conferred upon the DRT to extend such period. It is pertinent to note that the Securitization Act is for quick enforcement of the security interest created favoring the respondent bank for the recovery of the amount due.

28. In fact, the provisions of the Act and Rules framed thereunder cast an obligation upon the secured creditor for strict compliance of the

SARFAESI Act and the Rules made thereunder. Each measure is to be followed meticulously giving a time frame to proceed further. Firstly, the measures can be initiated after the account is classified as NPA, then issuance of statutory notice i.e., demand notice demanding outstanding due to be repaid within 60 days.

29. The secured creditor must wait for completion of 60 days and then proceeds further under Section 13[4] possession notice which is challengeable within a period of 45 days. Similarly, the Order of CJM or DM is also to be challenged within 45 days. In other words, ample opportunity is granted by the Act for an aggrieved person to invoke his right of appeal under Section 17 of the Act within a period of 45 days from the date of measure. The provisions of the Act and the Rules made thereunder puts the borrower/guarantor/mortgagor notices in advance before taking measures under Section 13(4) of the Act read with Rule 8 and 9, giving the aggrieved person ample of time and opportunities to assail measure within a period of 45 days.

30. Thus, the provisions of the Act and Rules ensures that the borrowers have advance notice of the proposed measure to be taken by the secured creditor. The judgement of the Hon'ble Supreme Court in ***Bank of Baroda – Vs.-Parasaadilal Tursiram Sheetgrah Pvt. Ltd*** has given a quietus to the conundrum which existed until that time on the power of the DRT to condone the delay in filing an SA after the statutory period of 45 days provided under Section 17(1) of the SARFEASI Act.

31. The Tribunal also places reliance on Order dated 27.06.2023 passed in Antony Samy Vs. State Bank of India in MA [SA]32/2021 by the Hon'ble DRAT Chennai has held that the statutory period of 45 days in challenging the measures cannot be condoned. The further reliance on the judgment dated 13.06.2025 passed by Hon'ble DRAT Chennai in Smt. M. Subathra Vs. State Bank of India MA. [SA] 31/2022,wherein it is held that if an application under Section 5 of Limitation Act is entertained in an application filed under Section 17 of SARFAESI Act,2002, it would derail the very purpose of the SAFAESI Act.

32. It is also an admitted fact that applicant has approached the respondent bank by identifying the prospective purchaser, however no documents have been produced or any name of the prospective purchaser is rendered before this Tribunal. The applicant has personally approached the bank for settlement, thus the applicant is aware of the measures initiated by the bank. The applicant has also failed to justify each days delay and the Tribunal without cannot condone the delay without any equitable or justifiable reasons.

33. For the foregoing reasons, the present IA No.2218 of 2026 in SA No.652 of 2026 stands dismissed. Consequently SA No.652 of 2026 also stands dismissed. Interim Order granted, if any stands vacated, pending IAs are disposed of in terms of this final order. No order as to cost

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34. Resultantly the present SA 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 28th day of September, 2026)

ANNEXURES

LIST OF DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Document No.
1.	Copy of FIR in Cr.No.78 of 2023 and Cr.No.268 of 2023 on the file of CCB, Vepery, Chennai	A-1
2.	Symbolic Possession Notice/ Vacant Notice dated 18.02.2026	A-2
3.	Copy of the impugned order passed in Crl.M.P.No.5542 of 2026 by the Ld. CMM, Egmore dated 22.07.2026	A-3

SCHEDULE OF PROPERTY

All that piece and parcel of apartment having a sale area of 1404 sq.ft., (inclusive of a share in common area) bearing apartment No.B2-904, on the 9th floor, of Tower B, in the Multi Stories building in the Township named as "SPR City" situated at Cooks Road, Perambur, Chennai, together with a 251 sq.ft., undivided share in land of an extent of 7.50 acres (equivalent to about 326700 sq.ft.,) comprised in R.S.Nos.218/5, Part, 219/1, 219/2 Part, 219/3 Part, 219/4 Part, and 219/5 Part 220/2 Part, 222/2 Part in Block No.11, Perambur Town, Division 73, Zone VI, Perambur Taluk, Chennai District, the said land being,

Bounded on the:

North by: Township land comprised in Survey Nos.222/2 Part, 220/2 Part and 219/4 Part

South by: Township land comprised in Survey Nos.219/1 Part, 218/5 Part and 219/5 Part

East by: OSR Land and Otteri Nallah

West by: Township land comprised in Survey Nos.219/1 Part, 220/2 Part and 222/2 Part

And situated within the registration district of Chennai Central and Sub Registration District of Purasaiwakkam.

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