IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 09th day of October, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

M.A. Nos.380 of 2025, 381 of 2025 & 60 of 2026

In

TA.No.1102 of 2023

1. M/s. T.N.U. Properties,
   Proprietrix, Mrs.Sandhya Srinivasan,
   W/o. N.Srinivasan,
   18/24, Shivaji Street, T.Nagar,
   Chennai – 600 017.

2. Mrs.Sandhya Srinivasan
   W/o. N.Srinivasan,
   18/24, Shivaji Street, T.Nagar,
   Chennai – 600 017.

3. Mr.Srinivasan
   S/o. Nagarajan
   18/24, Shivaji Street, T.Nagar,
   Chennai – 600 017. …Petitioners

-Vs-

Bank of Baroda,
(Erstwhile Vijaya Bank, Moore Street)
E.C.Street Branch,
Chennai 600 001.
Rep. by Asst.General Manager. …Respondent Bank

Counsels on record / appeared:

Counsel for Petitioners : M/s K.K. Kannan

Counsel for Respondent bank : Mr. S. Vaidyanathan

ORDER IN MAs 380/2025, 381/2025 & 60/2026

1. The defendants No.1 to 3 have filed MA No.60/2026, a petition praying to condone delay of 1263 days in filing application to condone

delay, MA No.380/2025, praying to re-open the proceedings in TA and MA No.381/2025 to set aside the ex-parte final order dated 05.08.2025 written statement and IA No.1432/2026 to recall the order dated 19.05.2022 setting the defendants ex-parte and provide an opportunity to contest the case on merits.

2. **Brief averment of MAs:**

2.1 The 2nd petitioner, who is the 2nd defendant in TA filed affidavit on behalf of herself and also on behalf of defendants 1 and 3. It is the case of the petitioners that the above OA has been filed by the applicant bank for the alleged recovery of a Sum of Rs.1,99,56,992.44p with the subsequent interest.

2.2 It is submitted that the applicant Bank has instituted O.A. No. 19 of 2021 before the Hon'ble DRT-II, Chennai. The said Original Application was first listed for hearing on 18.03.2021. The applicant Bank had caused service of notice in the said proceedings. On receipt of such notice, the petitioner had instructed the counsel to enter appearance and file Vakalath on behalf and 1st and 3rd defendants.

2.3 However, due to certain health complications, petitioners were unable to properly follow up with the counsel regarding the progress of the case. Consequently, in the absence of proper representation on behalf, the matter was proceeded ex-parte and the defendants were placed ex-parte on 30.08.2022. The defendants were not aware of the proceedings

thereafter and remained under the bonafide impression that the counsel had taken the necessary steps.

2.4 Subsequently, when the defendant attempted to execute a Power of Attorney in favour of his friend in respect of the property situated at Kodaikanal, the defendant was shocked to learn that the said property had been attached pursuant to the order passed by this Tribunal in the above O.A. proceedings. Immediately thereafter, defendant contacted the counsel and informed him about the attachment, for which the counsel assured that he would take steps to file set aside petition, and also obtained signatures of the defendants for the said petition. However, to the utter shock and dismay, the defendants later came to know that the counsel had not filed any such application before this Tribunal.

2.5 It is further submitted that the defendants have filed Writ Petition before the Hon'ble High Court of Madras, Madurai Bench, challenging the refusal order passed by the Sub-Registrar, Kodaikanal. The Hon'ble High Court was pleased to pass an order directing the Sub-Registrar to register the application. In the meantime, defendant had instructed the counsel to file a petition before this Tribunal to set aside the ex-parte order passed against the defendant in O.A. No. 19 of 2021. It was only after receiving the final order of this Court, the defendant came to know that the counsel had failed to file any application before this Tribunal.

2.6 It is submitted that the jurisdiction of DRTs in Chennai has been shuffled and the above case file was transferred from DRT-II Chennai to DRT-III Chennai and renumbered as T.A. No. 1102 of 2023 and was taken

on file after a gap about 19 months. It is further submitted that after renumbering the above case was adjourned to 04.03.2024 for marking of documents on the side of bank and further adjourned to 18.04.2024 for hearing the applicant bank on the premise that notice of hearing is already served to the petitioners.

2.7 It is contended by the petitioners that once the case file is transferred to other Tribunal, the applicant bank is bounded to take fresh notice to the defendants as per the principles of natural justice. However, the applicant bank conveniently suppressed those facts before this Tribunal.

2.8 It is the case of the petitioners that the OD facility of Rs.1,60,00,000/- was availed from the applicant bank on 07.07.2017 by mortgaging the immovable properties. Owing to delay in project layout approval and the subsequent COVID-19 lockdown, defaults occurred in repayment. The Bank classified the account as NPA with effect from 27.10.2018 and issued a demand notice under Section 13(2) of the SARFAESI Act on 05.11.2018, claiming Rs.1,70,72,288/- as outstanding as on 31.10.2018. Though the defendant subsequently made substantial payments, the Bank issued a possession notice under Section 13(4) of the Act on 18.01.2019.

2.9 It is the further case of the defendants that thereafter E-Auction sale notice was published by fixing reserve price of secured asset at Rs.2,23,65,000/-. However, the E-Auction proposed on 30.03.2020, was unsuccessful. The reserve price at Rs.2,23,65,000/-, which was allegedly below the guideline value and the property's market value of

Rs.4,00,00,000/-. Thereafter, the Bank issued an e-auction notice dated 13.12.2021 in respect of Plot Nos.20, 23 and 26, fixing separate reserve prices of Rs.39,60,000/-, Rs.13,50,000/- and Rs.12,15,000/-, respectively. Challenging the said notice, the defendants filed S.A. No.11 of 2022 before the DRT-II, subsequently transferred to DRT-III and renumbered as T.S.A. No.413 of 2023. During its pendency, the Bank informed that portions of the aforesaid plots had been sold through e-auction and the sale consideration had been paid by the auction purchaser. The defendants contend that the impugned e-auction notice is liable to be set aside for non-compliance with the provisions of the SARFAESI Act, 2002, and the Security Interest (Enforcement) Rules, 2002, particularly with regard to service of notice and the allegedly substantial reduction in the reserve price.

2.10 It is the case of the defendants that the remaining plots were not included in the E-auction notice and that they approached the Bank seeking a higher sale value, contending that the reserve price was substantially below the market value. However, the Bank did not consider their request to sell the properties at a higher price and settle the loan. It is further contended that, though portions of the secured properties were sold for Rs.56,00,000/-, the said amount was not properly accounted for in the loan account. The defendants further attribute the repayment defaults to the COVID-19 lockdown and contend that the SARFAESI proceedings are liable to be set aside for non-compliance with the prescribed procedure.

2.11 It is submitted that the Applicant Bank failed to consider the Defendant's status as a woman entrepreneur and has proceeded against the mortgaged properties without following the mandatory provisions of the SARFAESI Act. The Bank has already recovered ₹1,16,82,500/-, as reflected in the OD Account Statement, but failed to give credit for the same in the Auction Sale Notice. While the Bank claims a balance of Rs.82,74,492.44, this Court has directed recovery of Rs.1,99,56,992.44 with interest and penal interest, without accounting for the amount already recovered, thereby causing serious prejudice to the Defendant and violating the principles of natural justice.

2.12 It is submitted that the petitioners have a good chance to succeed the above case, as defendants have merits and the claim of the applicant bank is excessive and impermissible by law. Though the properties are not mortgaged with the bank, the applicant already sold the petitioner's property by adapting unlawful ways and unethically. The present demand to sell other property is nothing but excessive execution beyond the debt amount. If the defendants had opportunity to contest the above case, definitely they could have saved properties from attachment. The way adopted by the bank without notice and selling the property cannot be recognized by any law. It is contended by the petitioners that the delay in filing the application was neither wilful nor wanton, but due to the ill-health of the second petitioner and the lapses on the part of the previous counsel in properly informing them and taking necessary steps. Hence, they seek

to reopen T.A. No.1102 of 2023 by recalling the ex parte final order dated 05.08.2025 and permitting them to contest the matter on merits.

3. **Counter filed by the applicant bank:**

3.1 The respondent bank filed counter submitting therein that the present OA was filed for recovery of sum of Rs.1,99,56,992.44p from the defendants with further interest and costs. The OA was served on both the Petitioners/Defendants but had deliberately not appeared before the Tribunal with the intention of scuttling the case and to derail the due process of law. The contention at this stage after about 5 years of initial service of notice does not stand reason, since it is the responsibility of the Defendants to monitor his case and to see that proper counter is filed, if he intends to present his defence.

3.2 It is submitted that the case was filed in the year 2021 as O.A.19/2021 and the Defendants were set ex-parte as late as 30.08.2022 which shows that a long rope had been given the Defendants to pursue and defend their case.

3.3 It is submitted that the Petitioners have filed SA No.11 of 2022, which was transferred to this Tribunal and re-numbered as TSA 413/2023, challenging the sale of their properties in Madurai and had vehemently pursued the same. The said SA is in Arguments stage. Hence the contention of the Petitioners that they were not aware of the proceedings is far from the truth to say the least.

3.4 As admitted by the Petitioners themselves, they had filed Writ Petition for registration of Power of Attorney in respect of the property, attached in the O.A by the Tribunal, which clearly indicates that they were fully aware of the progress of the case from time to time. Further, the Madras High Court Madurai bench in W.P.(MD) 24883 of 2023, was also pleased to direct the Registrar to register the Power of Attorney presented by the Petitioner's Husband appointing his friend as his agent to take care of the property.

3.5 The contention of the Petitioners that they were not aware of the transfer of the case to DRT-III is preposterous and false since she has been pursuing their SA before the same DRT and is well aware of the proceedings before this Hon'ble Tribunal. It defies reason how the Petitioners chose not to pursue the case and how they were not aware of the transfer of the case to DRT-III, when they were well aware that their property had been attached.

3.6 It is submitted that the contentions in Paras 6 to 13 are related to sale of the properties under SARFAESI Act which have already been agitated in TSA 413 of 2023 and have nothing to do with the non-pursuance of the subject O.A and cannot be claimed as a ground for restoration of this OA.

3.7 It is therefore clear from the submissions that the Petitioners had deliberately absented themselves from the hearing in the case and there was no extraneous reason preventing them from pursuing this case and remaining ex parte. If the Petitioners were really serious about the sale of the properties and in pursuing their defence, they would have at least come

before this Tribunal when the petitioners were attached after due service of notice to them.

3.8 The Respondent submits that the Petitioners have not made out any case for reopening of this case after the issuance of DRC and the present application has been filed just to delay the Recovery proceedings when the Tribunal has already attached various other properties of the Petitioners/Defendants for recovery of balance due to the tune of Rs.94.30 lakhs with interest thereon at 11.50% per annum from March 2022, with total outstanding being about 139.00 lakhs still due from the Defendants.

3.9 The respondent bank had relied upon the judgment of the Hon'ble Apex Court in Sunil Poddar & others vs Union Bank of India, in Civil Appeal No. 86 of 2008, decided on January 8, 2008 wherein the Hon'ble Court had concluded as follows:

> Para 23 Quote: "It is, therefore, clear that the legal position under the amended Code is not whether the defendant was actually served with the summons in accordance with the procedure laid down and in the manner prescribed in Order 5 of the Code, but whether (i) he had notice of the date of hearing of the suit; and (ii) whether he had sufficient time to appear and answer the claim of the plaintiff. Once these two conditions are satisfied, an ex parte decree cannot be set aside even if it is established that there was irregularity in service of summons. If the court is convinced that the defendant had otherwise knowledge of the proceedings and he could have appeared and answered the plaintiff's claim, he cannot put forward a ground of non-service of summons for setting aside ex parte decree passed against him by invoking Rule 13 of Order 9 of the Code. Since the said provision applies to the Debts Recovery Tribunals and the Appellate

Tribunals under the Act in view of Section 22(2)(g) of the Act, both the Tribunals were right in observing that the ground raised by the appellants could not be upheld. It is not even contended by the appellants that though they had knowledge of the proceedings before DRT, they had no sufficient time to appear and answer the claim of the plaintiff Bank and on that ground, ex parte order deserves to be set aside." Unquote.

3.10 In the above case the Apex Court even did not consider the appeal on the ground of lack of knowledge of transfer of the suit from Civil Court to DRT. The present case is only a case of transfer between DRTs on account of change in jurisdiction and therefore much is much weaker as to the justification of the claim of the defendants not being aware of the case being transferred to this DRT. Further the Defendants had already been set ex-parte before the DRT-II on 30.08.2022 after service of notice and hence cannot claim ignorance of the proceedings or the subsequent transfer. Thus submitting, respondent bank prays for dismissal of the MA.

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

4.1 The present OA No.19/2021 was filed by the applicant bank before DRT-II Chennai for recovery of a sum of Rs.1,99,56,992.44p from the defendants along with interest and cost till the date of realization. After filing OA the Tribunal ordered summons to defendant's returnable by 18.03.2021. However, due to onset of Covid Pandemic, the case was adjourned by notification on 18.03.2021, 31.05.2021, 22.07.2021, and 23.09.2021 respectively. When the case was taken up on 23.09.2021

before the Registrar, applicant bank was directed issued fresh notice with the new address of the Tribunal and the case was posted to 02.11.2021. On 02.11.2021, applicant bank sought time for filing AOS and hence, the case was adjourned to 09.12.2021. Even on 09.12.2021 bank sought further time to issue fresh notice and accordingly the matter stood adjourned to 01.02.2022. On 01.02.2022, the case was again adjourned by notification to 28.03.2022. The applicant bank filed AOS on 28.03.2022 before the Registrar's Court. Summons to D1 to D3 were duly served. The applicant bank had also filed IA.No.516/2022 praying for an order attachment of the property mentioned in the schedule.

4.2 Therefore the case was posted before the Bench on 07.04.2022. On 07.04.2022 there was no representation for the defendants. IA No.516/2022 was taken up and an order restraining the respondent from alienating, encumbering and dealing with the property till next posting date was granted and Registry was directed to communicate the order to the concerned SRO. The case was posted to 02.05.2022 for filing AOS in IA.No.516/2022. However, on 02.05.2022 and 17.06.2022, the matter was adjourned by notification. On 30.08.2022 when the case was taken up, there was no representation for the defendants, despite service of summons. Therefore, they were called absent and placed ex-parte on 30.08.2022.

4.3 Thereafter, due to bifurcation of jurisdiction, the case was transferred to this Tribunal and re-numbered as TA.No.1102/2023. The applicant bank

filed its Proof Affidavit and documents and adduced evidence, thereby the documents were marked as Ex A-1 to A-17. After hearing the applicant, ex-parte final order came to be passed by this Tribunal on 05.08.2025. Consequently, DRC.No.364/2025 was also issued on 05.12.2025.

4.4 It is the case of the petitioners in the delay application that the 2nd petitioner was suffering from ill-health and could not effectively follow up the case before this Tribunal. Due to lapses on the part of the previous counsel, the matter was not properly informed to the petitioner and necessary steps were not taken within the prescribed time. Thus, resulting in the matter proceeded ex-parte order was passed on 30.08.2022.

4.5 As the Petitioners were unaware of the proceedings, they were under the bona fide belief that their counsel had taken necessary steps. Subsequently, while attempting to execute a Power of Attorney in respect of the Kodaikanal property, they came to know of the attachment ordered by this Tribunal and immediately instructed their counsel to file a petition to set aside the same, for which signatures were also obtained. However, the counsel failed to file the application. Meanwhile, the Petitioners approached the Hon'ble Madras High Court, Madurai Bench, against the Sub-Registrar's refusal, and the Court directed registration of their application. Despite specific instructions, the counsel failed to file the petition before this Tribunal to set aside the ex-parte order dated 13.08.2022.

4.6 The Petitioners contend that vide communication dated 28.12.2021, the Respondent Bank informed them that portion of the properties had been sold in E-auctions held on 08.09.2021 and 10.12.2021 for a total sale consideration of Rs.56 lakhs. Challenging the said sale, the Petitioners filed S.A. No.11/2022 before DRT-II, subsequently transferred and renumbered as T.S.A. No.413/2023, which is pending before this Tribunal. The Petitioners contend that the sales suffer from errors apparent on the face of the record and are liable to be set aside. Hence, having a strong case on merits, the Petitioners seek reopening of the T.A., recall of the ex-parte final order dated 05.08.2025, and an opportunity to contest the matter on merits.

4.7 Whereas the respondent bank filed their counter submitting that the summons in the OA was duly served to the defendants, who had not deliberately appeared before this Tribunal. The contention at this stage after five years of initial service of notice does not stand reason.

4.8 It is further contended by the respondent bank that the petitioners had filed SA.No.11.2022, since Re-numbered as TSA 413.2023 against the sale of their properties in Madurai and had vehemently pursued the same. Hence, the contention of the petitioners that they were not aware of the proceedings is not an acceptable defence. The further contention of the petitioner that they were not aware of the transfer of the case to DRT-III is unreasonable and false, since she has been pursuing the SA before the same DRT and is well aware of the proceedings before this Tribunal.

4.9 The Respondent submits that the Petitioners have not made out any case for reopening of this case after the issue of DRC and the present application has been filed just to delay the Recovery proceedings when the Tribunal has already attached various other properties of the Defendants for recovery of balance due to the tune of Rs.94.30 lakhs with interest thereon at 11.50% per annum from March 2022, with total outstanding being about 139.00 lakhs still due from the Defendants. The respondent bank in support of their contention has relied upon the judgment of the Hon'ble Apex Court in ***Sunil Poddar & others vs Union Bank of India, in Civil Appeal No. 86 of 2008, decided on January 8, 2008***. Thus, submitting the respondent bank prayed for dismissing the IAs.

4.10 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 1263 days in filing petition to set aside the ex-parte order.

4.11 The contention of the petitioners / defendants regarding the pendency of SARFAESI application filed by them and the erstwhile counsel not following up the case cannot be considered as a reason for delay in approaching this Tribunal immediately and file set aside petition, as it is the duty of the defendants, upon receipt of summons to enter appearance and file WS countering the contentions/claim of the applicant bank. 3rd petitioner despite filing vakalat as early as on 26.04.2022, failed to file Written Statement. There is no valid reason that has been put forth by the

defendants for non-participation in the proceedings and allowed the OA to go ex-parte and after issuance of DRC when the Recovery Officer started initiating steps for sale of property, now the defendants have come up with this MA, which is not a justifiable cause nor even on equity, while they were actively participating before the same Tribunal in the SARFAESI Application filed by them, challenging the Sale Notice issued by the bank. Now the defendants have come up with this IA, which is not a justifiable cause nor even on equity.

4.12 In the affidavit filed by the petitioners, there is no justifiable reason given explaining each day's delay in filing the set aside petition. It is apt to mention at this point that defendants have come forward to contest the matter at a belated stage without any reasonable and justifiable grounds, only with an intention to frustrate the proceedings.

4.13 The Tribunal reminds itself that the RDB Act is a special enactment, enacted with the purpose of providing expeditious adjudication and recovery of debts due to Banks and Financial Institutions. Time is the essence in quick disposal of Original Applications to avoid locking up of huge amount of public money in litigation which prevents proper utilization and recycling of the funds for the economic development of the country.

4.14 In the affidavit filed to condone the delay, there is no justifiable reason given explaining each day's delay. However, the reason put forth is of illness of 2nd petitioner and non-prosecution of case by the erstwhile counsel. Although the petitioners / defendants have filed MA to condone delay, re-

open the TA and to set aside the ex-parte order dated 30.08.2022, there is no reason put forth as to why the petitioners did not enter appearance and contest the OA despite receipt of summons from this Tribunal, being fully aware that the bank has filed OA for recovery of debt due from the defendants. There are no medical reports furnished by the petitioners, in support of their claim of illness of 2nd petitioner

4.15 It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour 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 "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation.

4.16 It is axiomatic that condonation of delay is a matter of discretion of the Court. However, while there is no sufficient cause has been satisfactorily assigned by the petitioner for the inordinate delay of 273 + 167 days in preferring the application, the Tribunal is not inclined to condone the delay.

4.17 In the instant matter the petitioners / Defendants has not justified the reasons for each day's delay and the Tribunal is not inclined to condone the delay even on equitable grounds. The Tribunals opinion is justified by the judgement of Hon'ble Supreme Court in the case titled ***Lingeswaran vs Thirunagalingam in SLP 2054-2055/2022*** where it is held that the Limitation Period Cannot Be Extended On Equitable Grounds.

4.18 The Hon'ble Supreme Court in the is the said judgement 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.

4.19 The Tribunal reminds itself that the RDDB Act is a special enactment, enacted with the purpose of providing expeditious adjudication and recovery of debts due to Banks and Financial Institutions. Time is the essence in quick disposal of Original Applications to avoid locking up of huge amount of public money in litigation which prevents proper utilization and recycling of the funds for the economic development of the country.

4.20 The strict timelines for cases before Tribunal is 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.

4.21 In the instant matter the petitioners have not chosen to enter appearance despite receipt of summons, while they were actively prosecuting the SARFAESI application before this Tribunal. Further, in the MAs for condonation of delay in filing petition to set aside the ex-parte order / restoration of OA, the petitioner is coming up with untenable, frivolous and vexatious reasons.

5. For the foregoing reasons the MA No.60/2026 filed for condonation of delay of 1263 days in filing petition to re-open the TA and set aside the ex-parte final order dated 05.08.2025 cannot be considered and the same stands rejected. Accordingly, MA.No.60/2026 stands dismissed. Consequently, MA No.381/2025, 382/2025 and MA No.159/2026 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 in Open Court, on this the 09th day of October, 2026)