Fair Order

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI

DATED THIS 06TH DAY OF OCTOBER, 2026

PRESENT: SEEMA SINHA
[PR. DISTRICT & SESSIONS JUDGE - Retd]
PRESIDING OFFICER

SA No.368/2019

1. M/s Sri Venkatram Spinners Private Limited
Represented through one of its Director
S. Srinivasan
Door No. 109/1, Koonamkulam Road
Rajapalayam (via)
Cholapuram – 626 139
Virudhunagar District ... **Applicant**

Vs

1. The Authorized Officer
Bank of Baroda
Rajapalayam Branch
855-861, Tenkasi Road
Rajapalayam – 626 117 ... **Defendant**

Appearance of Advocates:

M/s M. Arunachalam ... ***Counsel for the Applicant***
Mr. V. Kasirajan ... ***Counsel for the Defendant Bank***

This SARFAESI Application has heard in the presence of Counsels for the Applicant and the Defendant Bank and fixed for passing final order before me and upon hearing the arguments of the Counsels and having stood over for consideration till this day, this Tribunal delivered the following:

O R D E R

1. This Application has been filed under Sec. 17(1) of the SARFAESI Act, 2002 by the Applicant praying that this Hon'ble Tribunal may be pleased to set aside the impugned Sale Notice dated 24.06.2019 by the Defendant for the movable Property and declare the same as illegal; And to set aside the impugned Sale Notice 24.06.2019 by the Defendant, and to quash the entire SARFAESI Proceedings, and to restore the encumbrance free possession back to the Applicant.

2. The brief averments of the Application filed by the Applicant are as follows:-

A. The Applicant submitted that the above application is filed challenging the Auction Sale Notice dated 24.06.2019, published on 25.06.2019, fixing the date of sale on 30.07.2019, issued by the Defendant Bank in respect of the Schedule mentioned properties.

B. The Applicant is carrying on business in textiles under the name and style of **M/s. Sri Venkatram Spinners Private Limited**. The Applicant Company started its textile unit during the year 1992 with 2,160 spindles out of its own funds. It is respectfully submitted that during the year 1993-1994, the Applicant availed a Working Capital Loan to the tune of Rs.11.00 lakhs and a Term Loan of Rs.10.50 lakhs from the Defendant Bank. It is submitted that the Applicant went for expansion and increased its spindles to 6,000. For that purpose, the machineries were also brought by the Applicant out of its own funds, and the Defendant Bank had enhanced the Working Capital limit to Rs.75.00 lakhs, apart from the Term Loan of Rs.4.94 lakhs.

C. The Applicant had gone for further expansion and put up 12,000 spindles during the year 1997-1998, for which the Respondent had sanctioned a sum of Rs.250.00 lakhs by way of Term Loan and Rs.100.00 lakhs by way of Working Capital. The Applicant Company went for further expansion and put up 21,000 spindles during the year 2002-2003, for which the Defendant Bank had sanctioned a sum of Rs.625.75 lakhs by way of Term Loan and Rs.275.00 lakhs by way of Working Capital. It is further submitted that the Applicant Company, during the year 2005-2006, had gone for a major expansion with the help of the Defendant Bank and put up 43,000 spindles, for which the Defendant had sanctioned a sum of Rs.4,123.00 lakhs by way of Term Loan and Rs.600.00 lakhs by way of Working Capital. The Applicant submits that presently there are a total of 600 employees working in the Applicant Company.

D. The Applicant submitted that they have been banking with the Defendant since 1993. However, when the Applicant approached the Defendant for ad-hoc limits during the year 2006, the same was not considered by the Defendant Bank, and the Applicant was directed to go for joint financing with another Bank. Hence, the Applicant approached the State Bank of India for ad-hoc credit facilities. Considering the request of the Applicant, the State Bank of India had sanctioned a sum of Rs.800.00 lakhs towards Working Capital and a sum of Rs.1,397.00 lakhs towards Term Loan. The Applicant submits that, even though a sum of Rs.1,397.00 lakhs was sanctioned to the Applicant by the State Bank of India towards Term Loan, the Applicant had availed only a sum of Rs.97.00 lakhs and returned Rs.1,300.00 lakhs, as the financial position had improved. Likewise, a sum of Rs.200.00 lakhs sanctioned by the State Bank of India by way of Term Loan during 2013-2014 was also not availed. While sanctioning the

credit facilities by the State Bank of India, there was an inter se pari-passu agreement between the Defendant Bank and the State Bank of India.

E. The Applicant submitted that, he has been banking with the Defendant since 1993 and with the State Bank of India since 2006, and has been enjoying credit facilities and repaying the dues in time. The Defendant Bank has earned an enormous amount of interest since 1993, and the State Bank of India since 2006.

F. The Applicant submitted that the textile industry has been going through a downward trend since the year 2007. Further, the entire world faced a huge economic crisis during 2008, which resulted in a global downfall of all the industries. This fact is universally known to all the Banks and other Government Departments. Even during this period of time, the Applicant was able to withstand the situation and was very prompt in repayment of the dues to the Defendant as well as the State Bank of India. In view of the heavy repayments made by the Applicant without there being profits, it resulted in the erosion of the Working Capital.

G. The Applicant submitted that on 25.06.2014, the Applicant Company submitted a letter to the Defendant seeking restructuring of the loan. However, there was no proper response from the Defendant with regard to the restructuring. Since the Defendant failed to consider the proposal of the Applicant for restructuring, the Applicant had to make repayments of the loan without there being any profit, which resulted in erosion of the Working Capital facilities. Hence, the Applicant had to shore up the Working Capital to bring back the industry into a profit-making unit. Accordingly, the Applicant made a request on 03.08.2015 to the Defendant for a Corporate Loan of Rs.10.00 crores. However, the

said request of the Applicant was not considered favourably by the Defendant. In the meantime, the entire Term Loan with the Defendant was fully repaid by the Applicant.

H. The Applicant submitted that, in view of the inaction on the part of the Defendant Bank in restructuring the loan account, the Applicant Company had become sick, and the Applicant Company approached the BIFR and submitted a reference before the BIFR, and the same was registered as Case No.88/2016 before the BIFR.

I. The Applicant submitted that, the Defendant and the State Bank of India classified the loan account of the Applicant as NPA and issued a Demand Notice under Section 13(2) of the SARFAESI Act, 2002, on 01.07.2016, claiming a sum of Rs.38,71,04,723.83 jointly for the Defendant Bank and the State Bank of India, followed by the Possession Notice dated 29.11.2016.

J. The Applicants submitted that the Defendant Bank, on 23.11.2017, issued an Auction Sale Notice fixing the date of sale on 27.12.2017. Aggrieved by the above action of the Defendant Bank, the Applicants filed an application in S.A. No.501 of 2017. The Applicant craves leave of this Hon'ble Tribunal to treat the Memorandum of Application in S.A. No.501 of 2017 as part and parcel of the present Application. It is respectfully submitted that this Hon'ble Tribunal granted conditional stay, and the same was complied with by the Applicant after obtaining directions from the Hon'ble High Court. The application in S.A. No.501 of 2017 is still pending for adjudication.

K. The Applicant further submitted that, in the above said application, the Applicant filed a petition in I.A. No.270 of 2019 seeking a direction to the Defendant to restructure the loan account of the Applicant by

converting the interest arrears into a Funded Interest Term Loan, in terms of the Reserve Bank of India Guidelines dated 01.01.2019, and the same is pending for adjudication. The Applicant respectfully submits that, in the meantime, the Defendant Bank, in order to make the above petition infructuous, has issued the present Auction Sale Notice in respect of the movable properties, which are not included in the Section 13(2) Demand Notice and the Possession Notice. Aggrieved by the above action of the Defendant, the Applicant is preferring the present application on the following among other grounds.

GROUNDS

a. The action of the Defendant is contrary to law, the weight of evidence, and the probabilities of the case.

b. The Defendant ought to have seen that the Applicants are not chronic defaulters and that it was only due to the indifferent attitude of the Defendant Bank that the unit became sick and slipped into NPA.

c. The Defendant has not properly followed the guidelines of the RBI while classifying the loan account of the Applicant as NPA. Hence, the further action initiated under the SARFAESI Act is bad in law.

d. The Defendant ought to have seen that the loan account became NPA only due to the attitude of the Bank, for which the Applicants cannot be blamed or held liable. Since the classification of the loan account as NPA is bad in law, the Bank is not entitled to proceed further under the SARFAESI Act, 2002.

e. The Defendant Bank ought to have seen that the account became stressed only due to the defective lending process adopted by the Defendant Bank.

f. The Defendant Bank erred in issuing the present Sale Notice in respect of the movable properties while the application challenging the Auction Sale Notice in respect of the immovable properties is pending and the stay granted by this Hon'ble Tribunal is in force.

g. The Defendant erred in bringing the movable properties for sale, which were not included in the Demand Notice issued under Section 13(2) and the Possession Notice issued under Section 13(4) of the Act.

h. The Defendant has not followed the Rules properly while taking possession under Section 13(4) of the Act.

i. The Defendant ought to have seen that the Sale Notice was neither served upon the Applicants nor affixed on the conspicuous part of the property.

j. The Defendant erred in undervaluing the properties and fixing an unreasonably low upset price.

k. The Defendant ought to have seen that the amount outstanding as per the Sale Notice is Rs.6,96,00,622/-, whereas the property worth Rs.11,72,77,000/- has been brought for sale, which amounts to excessive execution.

l. The Defendant ought to have seen that the proceedings initiated by it are based on surmises and conjectures.

m. In any event, the action of the Defendant is liable to be set aside.

Description of movable Property

S. No	Description of Machines	Make / Model	Year of Manufacture	Qty
	A.BLOWROOM MACHINE			
	Line -I			
1	Mixing Bale Opener-GBR			
2	Mono Cylinder	Trutzschler	2000	1
3	Aster	LMW LB 4/2	2006	1
4	RN Beater & Condensor	Trutzschler	1995	1
5	RK Beater & Condensor	Trutzschler	1995	1
6	Control Panel	Trutzschler	1995	1
	Line -II			
1	MBO	LMW LB 3/2	2004	1
2	Condensor	LB2/1	2004	1
3	Monocylinder	LB4/2	2004	1
4	ERM	LR - B5/5	2004	1
5	Flexi Cleaner	LMW - LB5/6	2004	1
6	Ventilator		2004	1
7	Control Panel		2004	1
	Beating Line			
1	MBO	Rieter-B2/2	1973	1
2	Step Cleaner	Sangeetha	1998	1
3	Roving end Opener		1998	1
	B.CARDING MACHINES			
1	With FBK 533 Chute feed Auto can Changer,	Trutzschler - DK 740	1998	3

S. No.	Description of Machines	Make / Model	Year	Qty.
B.	**SPEED COMMANDER**			
2	With FBK 533 Chute feed, Auto can Changer, Speed commander SPC Control Panel with Accessories	Trutzschler - DK 740	1999	1
3	With FBK 533 Chute feed, Auto can Changer, card commander Control Panel with Accessories	Trutzschler - DK 780	2003	3
4	With Fine feed LA 7/5, 24"x42" coiler with Auto can changer, control panel with Accessories	Lakshmi-LC 300 Av3	2006	1

S. No.	Description of Machines	Make / Model	Year	Qty.
5	With Fine feed LA 7/5, 24"x42" coiler with Auto can changer control panel with Accessories	Lakshmi-LC 300	2004	3
6	With Fine feed LA 7/5, 24"x42" coiler with Auto can changer, control panel with Accessories	Lakshmi-LC 300	2005	1
C.	**DRAWFRAMES**			
1	LR Drawing with Single delivery, Auto leveller, Auto can changer with stabilizer & Accessories	RSB 851	1998	1
2	LR Drawing with Single delivery, Auto leveller, Auto can changer with stabilizer & Accessories	LRSB 851	2006	1
3	LR Drawing with Single delivery, Auto leveller, Auto can changer, 3KVA stabilizer & Accessories	LRSB 851	2004	2
4	Draw frame with Double Delivery, Non Auto leveller, 1 mt coiler & Accessories	RIETER SB-2	2006	1
D.	**SPEED FRAMES**			
1	Textool make 12" Lift, 108 Spindles, 4 over 4, 1600 Drafting with accessories	Textool-TS15	1996	1
2	LR mark 12" Lift, 144 Spindles, 4 Over 4, LR spring load Drafting with accessories	LF 1400A	1998	2
3	LR mark 12" Lift, 144 Spindles, 4 Over 4, LR spring load Drafting with accessories	LF 1400A	2003	1
4	LR mark 12" Lift, 144 Spindles, 4 Over 4, 1600 Drafting with accessories	LF 1400A	2007	1
5	LR make 12" Lift, 144 Spindles, 4 Over 4, 1600 Drafting with accessories	LF 1400A	2006	1
6	LR make 12" Lift, 108 Spindles, 4 Over 4, 1600 Drafting with missing parts & not in use for long time	LR GS	1982	1

S. No.	Description of Machines	Make / Model	Year	Qty.
	E.SPINNING FRAMES			
1	1008 Spindles with P3 - 1 DraftingUnirolls - OHTC with accessories	LR 6/S	2001	2

S. No.	Description of Machines	Make / Model	Year	Qty.
	E.SPINNING FRAMES			
2	1008 Spindles with P3 - 1 DraftingUnirolls - OHTC with accessories	LR 6/S	2004	4
3	1008 Spindles with P3 - 1 DraftingUnirolls - OHTC with accessories	LR 6/S	2003	3
4	1008 Spindles with P3 - 1 DraftingUnirolls - OHTC with accessories	LR G5/1	1998	6
5	960 Spindles with P3-I DraftingUnirolls-OHTC with accessories(located in winding shed)	LR 6/S	2004	2
	F.CONE WINDING MACHINES			
1	120 Drum, Premier micro 2010 EYC, splicer-4 Nos & Accessories	Vijay	2003	2
2	120 Drum, Premier micro 2010 EYC & Accessories	Vignesh	2004	1
3	120 Drum, Premier micro 2010 EYC & Accessories	Textool RT 95	1996	1
4	120 Drum, double slub catcher, trolley & Accessories	Textool RT 95	1998	1
5	120 Drum, single slub catcher, trolley & Accessories	Vigwind Industries	2004	1
6	120 Drum, double slub catcher, trolley & Accessories	Vijay	1998	1
7	120 Drum, double slub catcher, trolley & Accessories	Vijay	2004	1
8	Winding OHTC	Unirolls	2004	4
9	YCP - 600 Kgs Capacity	Sieger	2006	1
	G. WASTE EVACUATION SYSTEM			
1	Primary & secondary filter-motor 45 KW - 2nos,Compactor motor 3.7 KW - 2 Nos,Micro dust Collector- 1 No	VXL System	2004	Lot
	H. HUMIDIFICATION PLANT			
1	Supply Air, Exhaust Air, Pump, Ducting line, motor and complete system		2000	1
	I. POWSER HOUSE INSTALLATIONS			
1	1000 KVA Transformer with OLTC Panel board - Not in use	Crompton Greaves	1998	1
2	2000 KVA Transformer with OLTC Panel board	Indotech Transformer	2004	1

S. No.	Description of Machines / Assets	Make / Model	Year	Qty.
3	VCB-11 KV, 400A	Crompton Greaves	1998	1
4	M.V. Panel board, ACB-3200 A-1 Nos.SSB Panel, 9Nos CCB Panel - 500 KVAR,DB Panel, LSB Panel, RTCC Panel - 2 Nos,UG Cables, Fittings & Switch boards			
J.	**GENERATORS**			
1	Generator-600KVA, Engine model-5AG00822,Stamford Alternator model-HC544E2,Cooling tower, diesel tank		1993	Lot
2	Generator-625 KVA, Engine model-VTA-28-G5,Stamford Alternator model-HC 544F2, FCW060Cooling tower with Panel board, diesel tank	Caterpillar	2000	1
K.	**Workshop Machines**			
1	Hacksaw cutting machines			1
2	6" Feet Centre lathe	Payel	2000	1
3	Bench Grinder		2000	1
4	Concrete Demolisher	Bosch	2000	1
5	Hydraulic operated press		2000	1
6	Pillar Drilling Machine -30 mm capacity	Parmar	2000	1
7	Arc welding machine - 200 A	KORE	2000	1
8	Pipe vice & Bench vice with table		2000	1
L.	**ACCESSORIES**			
1	Fork Lift - 3000 Kgs capacity diesel operated,bale lifting attachment	Toyota 8FD30	2006	1
2	Reciprocating compressor with 10 HP motor &420 lits tank	Elgi - TS10	2006	1
3	Reciprocating compressor with 10 HP motor &220 lits tank		2006	1
4	Weighing Scale - 600 Kgs	Essae	1998	1
5	Carding cans		1998	Lot
6	Drawing & Simplex Can		1998	Lot
7	Simplex Bobbin		1998	Lot
8	Spinning Tubes		1998	Lot
9	Spinning Crates		1998	Lot
10	Hydraulic hand trolley		1998	Lot
11	Weighing Scale - 150 Kgs			
VALUATION OF MACHINERY - MILL B				

S. No.	Description of Machines / Assets	Make / Model	Year	Qty.
	A. BLOWROOM MACHINE			
	Line - I			

S. No.	Description of Machines	Make / Model	Year	Qty.
1	Unifloc A-11 bale plucking machine	Rieter	2006	1
2	Ventilator fan		2006	1
3	Flexi Cleaner	LMW - LB 5/6	2006	1
4	Unimix	LMW - LB 7/4R	2006	1
5	Unicleaner - B11	Rieter	2006	1
6	Unimix - B71	Rieter	2006	1
7	Uniflex-B60	Rieter	2006	1
8	Polyscanner	Sieger CCS	2006	1
9	Condensor A21	Rieter	2006	1
10	Heavy Material divertor	Rieter	2006	1
11	Metal Detector, Metal divertor, fire divertor & fire director - 8 Point	Vetal	2006	Lot
B.	**CARDING MACHINES**			
1	Rieter Chutefeed C 60S, 1 mt coiler, control panel, Auto can changer & accessories	RIETER C 60	2006	4
2	With Chutefeed LA 7/5, 24" X 42" coiler, Auto can changer, with Accessories	Lakshmi - LC 300 AV3	2006	4
3	With Chutefeed LA 7/5, 24" X 42" coiler, Auto can changer, with Accessories	Lakshmi - LC 300 AV3	2007	1
C.	**DRAWFRAMES**			
1	Rieter Drawing with Single delivery, Auto leveller, Auto can changer	RIETER RSB D-40	2006	1
2	LR Make Single delivery Auto leveler, 3KVA krykard stabilizer with Auto can changer	LMW-LRSB-851	2007	1
3	LR Make Single delivery Auto leveler with Auto can changer	LMW-LRSB-851	2006	1
4	Rieter Drawing with Double delivery, Non Auto leveller, 1 mt coiler & Accessories	Rieter SB 2	2006	1
D.	**COMBER MACHINES**			
1	Lap former Machine with Accessories	Rieter - E 32	2006	1
2	Comber machines with comber spool & trolley	Rieter - E 65	2006	5
E.	**SPEED FRAMES**			

S. No.	Description of Machines	Make / Model	Year	Qty.
1	LMW make 12" Lift, 144 Spindles, 4 over 4, 1600 drafting with Accessories	LF 1400 A	2007	1
2	LMW make 12" Lift, 120 Spindles, 4 over 4, 1600 drafting with Accessories	LF 1400 A	2007	2
3	LMW make 12" Lift, 144 Spindles, 4 over 4, SKF 1600 drafting with Accessories	LF 1400 A	2007	1
4	LMW make 12" Lift, 144 Spindles, 4 over 4 with Accessories	LF 1400 A	2006	2

S. No.	Description of Machines	Make / Model	Year	Qty.
5	OHTC	Unirolls	2006	2
F.	**SPINNING FRAMES**			
1	1200 Spindles with Auto doffing, P3-1 COM4 drafting Unirolls OHTC, com 4 compact systemwith accessories	Rieter - K441	2006	3
2	1008 Spindles with P3-1 Drafting,Unirolls OHTC with standard accessories	LMW-LR 6/S	2007	1
3	1008 Spindles with P3-1 Drafting,Unirolls OHTC with standard accessories	LMW-LR 6/S	2007	10
4	1008 Spindles with P3-1 Drafting,Unirolls OHTC with standard accessories	LMW-LR 6/S	2006	4
5	960 Spindles, 70 guage with accessories	Suessen Asia BT 702	2006	2
6	960 Spindles, 70 guage with accessories	Suessen Asia BT 702	2007	1
7	Slub attachment	Ecotex		8
8	YCP-CONDIMAT model,1200 Kgs with std accessories	SIEGER	2007	1
G.	**AUTOCONER MACHINE & CONE WINDING MACHINES**			
1	60 Drum, 9 magazine, Uster quantum 2 EYC,Auto doffing, 45KVA stabilizer, with individual	MURATEC 21C	2006	4
2	60 Drum, 6 magazine, Uster quantum 2 EYC,with individual OHTC - RM Type(Leased Machine)	Schlaforst - Autoconer 238	2005	1
3	160 Drums, Single Slub catcher, OHTC - 1No Unirolls and std accessories	Kinari wall Automat Pvt Ltd	2007	2

S. No.	Description of Machines	Make / Model	Year	Qty.
H.	**DOUBLING & REELING**			
1	Doubling Machine -432 Spindles withOHTC - 1 No		2000	2
2	DRT Double winder Machine120 Drums with OHTC	Vignesh	2002	1
3	Hydraulic bundling press - 5T Capacity	Fabtex	2002	4
4	Electrical operated Bailing Press - 120 Ton	PSG	1985	1
5	Reeling Machine - double sided,inverter motor, cone creel	Vignesh	1998	21
6	Double sided with single motorReeling machine with accessories(Behind office room)	KR	1998	16
I.	**COMPRESSOR MACHINES**			
1	Screw Compressor - 90 KW Capacity	Kaeser - DSD 171	2006	1
2	Screw Compressor - 55 KW Capacity	Kaeser - DSD 102	2006	1

Sl. No.	Description of Machinery / Equipment	Make / Model	Year of Manufacture	Qty.
3	Floor mounted compressor – 10 HP & 5 HP	—	2000	1
4	Screw Compressor – 20 KW	ELGI	2006	1
5	Air Receiver Tank – 3000 Litres Capacity	ELGI – E22	2006	1
6	Air Receiver Tank – 500 Ltrs Capacity	—	2000	1
7	Air Dryer – 600 CFM	—	2006	1
8	Air Dryer – 150 CFM	Summit(s)	2000	1
—	J. WASTE EVACUATION SYSTEM	—	—	—
1	Primary Filter with capacity of 75000 m3/hr, Motor – 75 HP with Accessories	VXL System	2006	Lot
2	Secondary filter with capacity of 65000 m3/hr. Motor-60 HP with Accessories	VXL System	2006	Lot
3	Comber Noil compactor – 1 No., Waste Compactor – 4 Nos & Micro Dust Collector – 2 Nos.	VXL System	2006	Lot
—	K. Humidification Plant	—	—	—
1	Supply Air, Exhaust Air, Pump, Ducting line, motor and complete system	—	2006	1
—	L. Power House Installations	—	—	—
1	2500 KVA Transformer with OLTC Panel	Universal Transformer	2007	1
2	M.V. Panel board, ACB-4000A, SSB Panel-7 Nos, CCB Panel-400 KVAR,	—	2007	Lot

Sl. No.	Description of Machinery / Equipment	Make / Model	Year of Manufacture	Qty.
	MLSB panel-1 No, DB Panel, UG Cables, Switch Board & others			
—	M. OQC EQUIPMENTS	—	—	—
1	Premier IQ testing	Permier IQ	2006	1
2	Eveness Tester, Trash Analyser	Mag	2006	1
3	Wrap reel, Wrap Block	Mag	2006	1
4	Weighing Scale-150gms	Adventure	2006	1
5	Lee Strength Tester	Cascade	2006	1
—	N. ACCESSORIES	—	2006	—
1	Carding cans	—	2006	Lot
2	Drawing, Comber & Simplex Cans	—	2006	Lot
3	Simplex Bobbin	—	2006	Lot
4	Spinning Tubes	—	2006	Lot
5	Electronic Weighing Scale	Essae	2006	Lot
6	Spinning Crates	—	—	—

Sl. No.	Description of Machines	Make / Model	Year of Manufacture	Qty.
	VALUATION OF MACHINERY OF MILL			
s.	Description of Machines			
1	Line-II-OE Line – Unmix - B7/4R	LMW	2006	1
2	Flexi Cleaner-LB 5/6	LMW	2006	1
—	**Carding-OE Line**	—	—	—
1	Rieter Chutefeed C 60S, 1 mt coiler with Auto can changer	RIETER C 60	2006	1
2	With chutefeed LA 7/5, coiler with Auto can changer	LC 300A	2007	1
—	**Drawing-OE Line**	—	—	—
1	Rieter Drawing with Single delivery, Auto can changer & Accessories	RIETER RSB D-40	2006	1
—	**OE MACHINES**	—	—	—
1	360 Rotor OE Machine with accessories	RIETER BT 923	2007	1

LIST OF DOCUMENTS SUBMITTED BY THE APPLICANT

S.No.	Date	Description of documents

1.	01.07.2016	13(2) Demand Notice issued by the Defendant
2.	29.11.2016	13(4) Possession Notice issued by the Defendant Bank
3.	23.11.2017	Auction Sale Notice for Immovable properties issued by the Defendant Bank
4.	22.12.2017	Order passed by this Hon'ble Tribunal in SA No. 501 of 2017
5.	05.03.2018	Order passed by this Hon'ble DRAT in A.I.R.(SA) No. 17 of 2018
6.	13.03.2018	Order passed by the Hon'ble High Court in W.P.(MD) No. 5278 & 5279 of 2018
7.	25.06.2019	Publication of Auction Sale Notice for movable properties

3. On the other hand, the Defendant bank appeared and filed Vakalath, Reply Statement, type set of papers & Written arguments wherein it has been submitted that the allegations contained in the Securitisation Application, except those specifically admitted herein, are false, incorrect, and therefore denied. The Defendant Bank submits as follows:

- **At the outset**, the Defendant Bank denies all the allegations, averments and contentions raised by the Applicant in the present Securitisation Application, except those that are specifically admitted herein. The present application is misconceived, devoid of merits and not maintainable either in law or on facts. The Applicant has approached this Hon'ble Tribunal with an intention to delay and obstruct the recovery proceedings initiated by the Defendant Bank for recovery of public money.

- The Applicant had availed various credit facilities from the Defendant Bank and, in consideration thereof, created valid and enforceable security interests over the properties described in the Schedule to the Application, apart from other secured assets. The Applicant failed to adhere to the agreed repayment schedule and committed persistent defaults. No payment was made towards servicing of interest from

31.03.2016, and no amount was paid after 27.05.2016. Consequently, the loan account was classified as **Non-Performing Asset (NPA) on 30.06.2016**, in accordance with the applicable RBI norms.

- Consequent upon the default, the Defendant Bank initiated proceedings under the provisions of the **SARFAESI Act, 2002**. A Demand Notice dated **01.07.2016** was issued to the Applicant under Section 13(2) of the Act and the same was duly acknowledged. Since the Applicant failed to discharge the liability within the prescribed period, the Defendant Bank took symbolic possession of the secured assets on **29.11.2016** in accordance with law.

- The Possession Notice was duly published in **"The New Indian Express" (English)** and **"Dinamalar" (Tamil)** on **05.12.2016**. The Possession Notice was also affixed on the conspicuous part of the secured property and served upon the Applicant. Despite being fully aware of the proceedings and the outstanding liability, the Applicant failed to redeem the secured assets by clearing the dues.

- It is further submitted that the Applicant had earlier filed **S.A. No.501/2017** challenging the Sale Notice dated **23.11.2017**, which was pending adjudication and was posted for hearing on **19.09.2019**. The pendency of the said proceedings does not confer any right upon the Applicant to prevent the Defendant Bank from taking further lawful measures for recovery of its dues.

- The Defendant Bank had also instituted **O.A. No.1145/2017** before this Hon'ble Tribunal seeking recovery of a sum of **Rs.13,13,39,503/- as on 09.10.2017**, which was pending adjudication.

- In continuation of the recovery proceedings, the Defendant Bank obtained valuation of the secured property from an approved valuer

and, in accordance with the applicable provisions of the Security Interest (Enforcement) Rules, 2002, fixed the reserve price in consultation with the secured creditor. Thereafter, the **Sale Notice dated 24.06.2019** was issued fixing the auction sale on **30.07.2019**.

- The said Sale Notice was duly served upon the Applicant. The sale particulars were also published in **"The New Indian Express" (English)** and **"Dinathanthi" (Tamil)** on **25.06.2019**. Subsequently, a corrigendum was published in **"The New Indian Express"** and **"Dinamani"** on **30.06.2019**. The Sale Notice was also affixed on the conspicuous part of the secured property. Thus, the Defendant Bank has duly complied with the statutory requirements relating to the proposed sale.

- The Applicant's allegation that the Defendant Bank has failed to follow the statutory procedure or RBI guidelines is wholly incorrect. The account was classified as NPA only after persistent default on the part of the Applicant and in accordance with the applicable norms. The SARFAESI proceedings were therefore lawfully initiated and continued.

- The contention that the Defendant Bank ought to have restructured the loan facilities pursuant to the Government of India communication dated **12.09.2012** is misconceived. The term loan facilities availed by the Applicant's company had already undergone restructuring in **2008**, pursuant to which the company was required to make repayment in accordance with the restructured repayment schedule. There was no obligation upon the Defendant Bank to undertake restructuring for a second time, particularly when the Applicant had not established any enforceable right for such restructuring.

- It is further submitted that the Applicant had availed additional/enhanced facilities subsequent to the aforesaid period, including:
    - Enhancement of the Cash Credit limit from **Rs.6 Crores to Rs.10 Crores**, for which the security documents were executed on **16.11.2011** and the enhanced facility was availed on **30.03.2013**; and
    - An **Ad hoc limit of Rs.2 Crores**, which was availed on **05.01.2016**.
- The allegations contrary thereto are denied.
- The Applicant's contention that its account was eligible for restructuring under the RBI guidelines dated **01.01.2019** is also untenable. The said guidelines were not applicable to the Applicant's account for, inter alia, the following reasons:
- The aggregate exposure of the Defendant Bank and the State Bank of India together exceeded **Rs.250 Million** as on 01.01.2019;
- **ii)** The State Bank of India had already initiated Corporate Insolvency Resolution Process proceedings on **14.01.2019**, claiming a sum of **Rs.40,02,87,000.16 as on 31.12.2018**;
- **iii)** The liability due to the Defendant Bank as on **31.12.2018** was **Rs.12,67,72,169.30**; and
- **iv)** The Applicant's account was not a standard account as on **01.01.2019**. It had already remained classified as NPA from **30.06.2016** and had consequently remained in the NPA category for more than twelve months.
- Therefore, the Applicant cannot claim the benefit of the said RBI guidelines as a matter of right.

- The allegations contained in the grounds raised by the Applicant are denied. The Applicant was fully aware of the outstanding liability and the recovery proceedings. The Defendant Bank states that the outstanding amount due as on **17.07.2019** was **Rs.14,46,68,813/- (Rupees Fourteen Crores Forty-Six Lakhs Sixty-Eight Thousand Eight Hundred and Thirteen only)**.

- The Applicant was also aware of the **Joint Possession Notice dated 29.11.2016**, wherein the liabilities of the Applicant towards the concerned banks were specifically set out as follows:

Sl. No.	**Name of Banker**	**Due Amount (Rs.)**	**As on**
1	Bank of Baroda (BOB)	11,26,61,667/-	30.06.2016
2	State Bank of India (SBI)	26,82,00,723/-	27.06.2016

- The Applicant did not raise any objection to the said Possession Notice at the relevant time.

- The allegation that the account became stressed due to defective lending by the Defendant Bank is vague, baseless and unsupported by any material. The Applicant itself submitted a letter dated 25.06.2014 seeking restructuring. During the relevant period, the aggregate outstanding in the company's term loan accounts was only approximately Rs.6.25 Crores, as against the original aggregate limit of Rs.40.55 Crores. The facilities were reviewed on 27.06.2014 pursuant to the company's request.

- The Applicant's request for a corporate loan was not favourably considered by the Defendant Bank in view of the substantial inter-firm transactions and the fact that a major portion of the book debts was

receivable from associate concerns. At the relevant time, the unit was otherwise functioning satisfactorily and the account was considered healthy. Nevertheless, an Ad hoc limit of Rs.2 Crores was sanctioned and availed by the Applicant. Hence, the allegation that the Defendant Bank had caused or contributed to the financial stress of the Applicant is denied.

- The Defendant Bank had been provided with several movable and immovable securities by the Applicant and is legally entitled to enforce such securities for recovery of the outstanding public money. The pendency of a challenge to an earlier auction/sale notice does not, by itself, constitute a legal bar against the Defendant Bank from taking subsequent measures in accordance with law.

- The contention regarding the movable properties is also untenable. The movable properties hypothecated in favour of the Defendant Bank were included in the Demand Notice dated 01.07.2016 and the Possession Notice dated 29.11.2016. The Applicant did not challenge the inclusion of the said assets at the relevant time.

- The allegation of non-compliance with the statutory rules and the allegation that the Sale Notice was not properly served are specifically denied. The Sale Notice dated 24.06.2019 was duly served upon the Applicant and was also affixed on the conspicuous part of the secured property. The Defendant Bank has produced the relevant acknowledgement and photographs evidencing such affixture.

- The allegation that the valuation or reserve price fixed by the Defendant Bank was improper or unreasonable is denied. The valuation was obtained from an approved valuer and the reserve price was fixed in accordance with the applicable statutory procedure. The Applicant has

not produced any material to establish that the valuation was arbitrary or contrary to law.

- With regard to the amount stated in the Sale Notice, the Defendant Bank submits that a corrigendum was duly issued correcting the liability, and the liability as on 31.05.2019 was stated as Rs.14,24,78,806/-. Therefore, the Applicant cannot rely upon the original figure, which stood duly corrected by the corrigendum.

- The remaining allegations and grounds raised by the Applicant, insofar as they are inconsistent with or contrary to the above submissions, are denied. The Applicant has failed to establish any illegality, irregularity or violation of the provisions of the SARFAESI Act or the Security Interest (Enforcement) Rules, 2002 on the part of the Defendant Bank.

- The present application has been filed only with a view to delay the recovery proceedings and frustrate the Defendant Bank's lawful measures for realization of public money. The Applicant has not demonstrated any bona fide attempt to discharge the admitted liability or to regularise the account.

- In the circumstances, the Defendant Bank submitted that the Sale Notice dated 24.06.2019 and the consequential measures taken pursuant thereto are lawful, valid and in accordance with the provisions of the SARFAESI Act, 2002 and the Security Interest (Enforcement) Rules, 2002. The Applicant is not entitled to any relief as sought for in the present application.

- Therefore, it is respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss the present Securitisation Application as devoid of merits, uphold the measures taken by the Defendant Bank under the SARFAESI Act, 2002, and pass such further or other orders as this

Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Written Argument on behalf of the Defendant:

- ✓ That the present Securitisation Application, S.A. No. 368 of 2019, has been filed by the Applicant, M/s. Sri Venkatram Spinners Private Limited, challenging the Auction Sale Notice dated 24.06.2019, published on 25.06.2019, fixing the date of sale as 30.07.2019. The Defendant Bank, having extended Cash Credit and CC Adhoc facilities to the Applicant, classified the loan account as a Non-Performing Asset (NPA) on 30.06.2016 due to continuous default in repayment of dues since 31.03.2016, with no voluntary payment having been made after 27.05.2016. Consequently, the Defendant Bank initiated recovery proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "SARFAESI Act"), by issuing a Demand Notice under Section 13(2) dated 01.07.2016, followed by a Possession Notice under Section 13(4) dated 29.11.2016. The present application filed under Section 17 of the SARFAESI Act is not maintainable either in law or on facts, as the Defendant Bank has complied with the statutory provisions and applicable guidelines. The Applicant, by suppressing true and material facts, has filed the present application with the ulterior motive of delaying and frustrating the legitimate recovery proceedings initiated by the Defendant Bank for recovery of public money.

- ✓ The Defendant Bank submits that the Applicant has approached this Hon'ble Tribunal with unclean hands and has suppressed material facts while making vague and untenable allegations. The present application is filed only with a view to protract the recovery proceedings

initiated by the Defendant Bank. The SARFAESI Act is a special enactment intended to provide an expeditious mechanism for recovery of public dues, and the conduct of the Applicant amounts to an abuse of the process of law.

- ✓ The classification of the Applicant's loan account as NPA on 30.06.2016 was entirely in accordance with the extant Reserve Bank of India (RBI) guidelines and the terms and conditions of the loan agreement. The Applicant failed to service the interest from 31.03.2016 and made no voluntary payment after 27.05.2016. The allegations of defective lending or an indifferent attitude on the part of the Defendant Bank are baseless and have been raised only to shift the responsibility for the Applicant's own defaults.

- ✓ The Defendant Bank has followed the statutory procedures prescribed under the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002. The Demand Notice dated 01.07.2016 issued under Section 13(2) was duly served and acknowledged. Upon non-compliance with the said Demand Notice, symbolic possession of the secured assets was taken on 29.11.2016. The Possession Notice was published in "The New Indian Express" (English) and "Dinamalar" (Tamil), both dated 05.12.2016. The Possession Notice was also affixed on the conspicuous part of the secured assets and duly served upon the Applicant. The impugned Sale Notice dated 24.06.2019 was also served upon the Applicant and published in "The Hindu" and "Dinathanthi", both dated 25.06.2019. A corrigendum was thereafter published in "The New Indian Express" and "Dinamani", both dated 30.06.2019. The aforesaid acts demonstrate compliance by the Defendant Bank with the applicable statutory requirements.

- ✓ The Applicant's contention regarding the alleged inaction of the Defendant Bank on restructuring proposals is misleading. The term loans availed by the company had already been restructured in the year 2008, and the company was making repayments in accordance with the restructured schedule. A second restructuring was neither requested by the company nor warranted at the relevant point of time. Further, the Applicant availed an enhanced Cash Credit limit from Rs.6 Crores to Rs.10 Crores on 16.11.2011 and an Adhoc Limit of Rs.2 Crores on 05.01.2016, even after its alleged request for restructuring in the year 2014. The request for a corporate loan was not favourably considered in view of the huge inter-firm transactions and receivables from associate concerns, which was a prudent banking decision.

- ✓ The Applicant's reliance upon the RBI guidelines dated 01.01.2019 relating to restructuring is misplaced and inapplicable to the present case. As on 01.01.2019, the aggregate exposure of the Defendant Bank and the State Bank of India, taken together, exceeded Rs.250 Million. Further, the account was not classified as a "standard" account as on 01.01.2019; rather, it had already been classified as a "Doubtful Asset", having remained an NPA since 30.06.2016, i.e., for a period exceeding 12 months. Therefore, the account did not fall within the ambit of the said RBI circular.

- ✓ The pendency of S.A. No. 501 of 2017, challenging an earlier Sale Notice dated 23.11.2017 in respect of immovable properties, does not constitute a legal impediment to the Defendant Bank proceeding with the sale of movable properties. The secured creditor is entitled to enforce its security interest over all secured assets, whether movable or immovable, in accordance with the terms of the loan agreement and the provisions of the SARFAESI Act. The present Sale Notice pertains to

movable properties, which were duly included in the original Demand Notice under Section 13(2) dated 01.07.2016 and the Possession Notice under Section 13(4) dated 29.11.2016 and were not challenged by the Applicant at the relevant point of time.

- ✓ The allegation that the movable properties were not included in the Demand Notice under Section 13(2) and the Possession Notice under Section 13(4) is factually incorrect. The movable properties hypothecated to the Defendant Bank were specifically included in the Demand Notice dated 01.07.2016 and the Possession Notice dated 29.11.2016. The Applicant did not challenge the contents of the said notices at the relevant time. Hence, the present contention is an afterthought and is devoid of merit.

- ✓ The Defendant Bank obtained a valuation of the secured properties from an approved valuer, and the reserve price was fixed in consultation with the secured creditor in accordance with the applicable rules. The allegation of undervaluation and fixation of the lowest upset price is a bald assertion unsupported by any material evidence. The Defendant Bank has acted transparently and in good faith with the object of realizing the best possible value from the secured assets.

- ✓ The initial outstanding amount stated in the Sale Notice was subsequently corrected by way of a corrigendum, clearly stating the liability as on 31.05.2019 at Rs.14,24,78,806/-. The allegation that properties worth Rs.11,72,77,000/- were brought to sale against a stated due of Rs.6,96,00,622/- is based on an incorrect figure and is therefore denied. The Defendant Bank is entitled to recover the entire outstanding liability, which is significantly higher than the amount referred to by the Applicant.

- ✓ The Applicant and the other defendants have wilfully abstained from appearing before this Hon'ble Tribunal in O.A. No. 1145 of 2017, filed by the Defendant Bank for recovery of a sum of Rs.13,13,39,503/- as on 09.10.2017. The proceedings of this Hon'ble Tribunal, as extracted in the Written Statement, clearly disclose repeated non-appearance on the part of the Applicant (D-1 to D-4) on several dates, despite service having been completed. Such conduct demonstrates the Applicant's deliberate attempt to prolong the proceedings and evade its financial obligations.

- ✓ The State Bank of India, being a consortium lender, has already filed an application initiating Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code, 2016, on 14.04.2019, claiming a sum of Rs.40,02,87,000.16 as on 31.12.2018. This development indicates the financial distress of the Applicant and reinforces the necessity for the Defendant Bank to take appropriate steps for recovery of its outstanding dues through the SARFAESI proceedings. The pendency of the CIRP further demonstrates the Applicant's financial difficulties and does not invalidate the recovery measures initiated by the Defendant Bank.

- ✓ The Applicant has not demonstrated any bona fide intention to discharge the outstanding dues. No voluntary payment has been made after 27.05.2016, except payments made in compliance with a conditional stay order passed by the Hon'ble High Court. The present application is merely an attempt to gain time and delay the recovery proceedings, without placing before this Hon'ble Tribunal any concrete proposal for repayment or settlement of the outstanding dues.

- ✓ The SARFAESI Act was enacted to provide a speedy and effective mechanism for banks and financial institutions to recover their non-

performing assets without the intervention of courts. The Hon'ble Supreme Court in *Mardia Chemicals Ltd. v. Union of India*, (2004) 4 SCC 311, and subsequently in *Swiss Ribbons Pvt. Ltd. v. Union of India*, AIR 2019 SC 739, has upheld the constitutional validity and legislative intent underlying such mechanisms, emphasizing the need for expeditious resolution of financial distress and recovery of public money. Permitting frivolous applications to obstruct legitimate recovery proceedings would defeat the very object and purpose of the SARFAESI Act.

- ✓ The present application has been filed with the ulterior motive of frustrating the recovery proceedings initiated by the Defendant Bank. The Applicant has sufficient means to discharge the liability but is reportedly taking steps to transfer the secured interest, thereby indicating a deliberate attempt to frustrate the recovery process. The Applicant ought not to be permitted to misuse the legal process to prolong the proceedings and cause prejudice to the Defendant Bank.
- ✓ All other grounds raised by the Applicant, including Grounds 'a', 'h', 'l', 'm' and 'n', are vague, speculative and unsupported by any material evidence. The Defendant Bank has duly complied with the applicable statutory provisions and procedures, and the allegations raised by the Applicant are devoid of merit and appear to have been made solely with a view to delay the recovery proceedings.

Typed set of papers filed by the Defendant Bank

Sl.No.	Date	Description of documents
1.	14.10.2016	Objection filed before BIFR in case No. 88/2016 by the respondent bank
2.	09.10.2017	Copy of OA No. 1145/2017 on the file of DRT, Madurai
3.	22.12.2017	Interim order passed by this Tribunal in SA No. 501/2017
4.	05.03.2018	Order passed by Hon'ble DRAT, Chennai in AIR(SA) No. 17/2018 in SA No. 501/2017
5.	13.03.2018	Common order passed by Hon'ble High Court, in W.P. Nos. 5278/2018 and 5279/2018
6.	27.04.2018	Order passed by Supreme Court, in SLP No. 10002-10003/2018 in W.P. Nos. 5278/2018 and 5279/2018
7.	30.06.2018	Representation of the applicant for OTS
8.	22.07.2018	Rejoinder of respondent "bank for rejecting OTS proposal as too low
9.	01.07.2016	13(2) Demand Notice
10.	04.07.2016	Acknowledgment card received from the applicants
11.	23.08.2016	Representation of the applicant
12.	01.09.2016	Reply given by the bank to the representation dated 23.08.2016
13.	31.08.2016	Representation of the applicant
14.	14.09.2016	Reply given by the bank to the representation dated 31.08.2016
15.	28.09.2016	Representation of the applicant
16.	13.10.2016	Reply given by the bank to the representation dated 28.09.2016
17.	29.11.2016	13(4) Possession Notice
18.	02.12.2016	Acknowledgment card received from the applicants
19.	05.12.2016	Possession Notice published in "The New Indian Express"
20.	05.12.2016	Possession Notice published in "Dinamalar"
21.	--	Photo affixture of Possession Notice
22.	26.06.2019	Sale Notice
23.	25.06.2019	Sale Notice published in "The New Indian Express"

24.	25.06.2019	Sale Notice published in "Dinathanthi"
25.	29.06.2019	Acknowledgement card received form the applicant and others
26.	30.06.2019	Corrigendum for Sale Notice published in "The New Indian Express"
27.	30.06.2019	Corrigendum for Sale Notice published in "Dinamani"
28.	--	Photo affixture of Sale Notice

4. On the basis of the above pleadings, the following issues have been framed:

I. Whether the Applicant has been able to prove his case in his own legs?

II. Whether the Applicant is entitled to get the reliefs as prayed for?

5. Having heard the parties and after going through the entire documents available on record, this Tribunal finds that there is no dispute with regard to the availment of the loan facilities by the Applicant. The Applicant is carrying on the business of textiles under the name and style of M/s. Sri Venkatram Spinners Private Limited. The company started its textile unit during the year 1992 with 2,160 spindles out of its own funds. During the year 1993-1994, the Applicant availed a Working Capital Loan to the tune of Rs.11.00 lakhs and a Term Loan of Rs.10.50 lakhs from the Defendant Bank. The Applicant has been banking with the Defendant Bank since 1993. The Applicant approached the Defendant Bank for an Ad-hoc Limit during the year 2006; however, the same was not considered by the Defendant Bank, which directed the Applicant to go for joint financing with another Bank. Accordingly, the Applicant approached the State Bank of India, and the same was sanctioned. The Applicant claims to have been making regular repayments without any default since 1993. The textile industry has been going through a downward trend since the year 2007. Further, the entire world faced a severe economic crisis during the year 2008. Even during that

period, the Applicant was able to withstand the situation and was prompt in repayment of the dues to the Defendant Bank as well as the State Bank of India. However, the Applicant subsequently committed default in repayment of the outstanding dues, and in the meantime, the Defendant Bank and the State Bank of India classified the loan account as NPA on 30.06.2016. Thereafter, the Defendant Bank issued a Demand Notice under Section 13(2) of the SARFAESI Act dated 01.07.2016, demanding a sum of Rs.11,26,61,667/- (Rupees Eleven Crores Twenty-Six Lakhs Sixty-One Thousand Six Hundred and Sixty-Seven only). On perusal of the records, I find that the Defendant Bank has produced a copy of the Demand Notice dated 01.07.2016 along with the copy of the AD Card, **which are annexed at Pages 75 to 80 of the Typed Set of Papers**. Further, I find that the Applicant submitted a representation to the Defendant Bank vide letter dated 23.08.2016. In reply, the Defendant Bank sent a reply vide letter dated 01.09.2016 to the Applicant, further the applicant again submitted two representations dated 31.08.2016 and 29.09.2016 in reply Defendant Bank has also sent a reply vide letter dated 14.09.2016 & 13.10.2016 respectively **which are annexed at Pages 82 to 106 of the Typed Set of Papers.**

6. Thereafter, the Defendant Bank issued a Possession Notice dated 29.11.2016 under Section 13(4) of the SARFAESI Act, demanding a sum of Rs.26,82,00,723.83 (Rupees Twenty-Six Crores Eighty-Two Lakhs Seven Hundred and Twenty-Three and Eighty-Three Paise only). On perusal of the records, I find that the Defendant Bank has produced a copy of the Possession Notice dated 29.11.2016 along with the AD Covers which proves that the Defendant Bank has served the Possession Notice to the Applicant, **which are annexed at Pages 108 to 111 of the Typed Set of Papers.** The Defendant Bank has further produced copies of the newspaper publications of the Possession Notice in two leading newspapers, one in English and the other in Tamil, published on 05.12.2016, **which are annexed at Pages 113**

and 115 of the Typed Set of Papers. I further find that the Defendant Bank has also produced copies of the photographs evidencing the affixture of the Possession Notice dated 29.11.2016 on the conspicuous part of the schedule-mentioned secured property, **which are annexed at Page 117 of the Typed Set of Papers** but on which date the Possession Notice was affixed is not mentioned in the photograph.

7. On further scrutiny of the records, I find that the Defendant Bank has produced a copy of the Sale Notice dated **26.06.2019**, issued under Rules 8(5) and 9(1) of the Security Interest (Enforcement) Rules, 2002, fixing the e-auction sale of the movable property on **30.07.2019**. However, the said Sale Notice does not mention the amount due payable by the borrower. The said document is **annexed at Pages 118 to 125 of the typed set of papers** of Defendant Bank.

Further, I find that the Defendant Bank has produced the newspaper publication of the Sale Notice dated **24.06.2019**, issued under Rule 6(2) of the Security Interest (Enforcement) Rules, 2002, fixing the e-auction sale of the movable property on **30.07.2019** for recovery of a sum of **Rs.6,96,00,622/- (Rupees Six Crores Ninety-Six Lakhs Six Hundred and Twenty-Two only)**, issued by the Authorised Officer, Zonal Stressed Assets Recovery Branch, Bank of Baroda, Chennai. The said publication is **annexed at Pages 126 to 127 of the typed set of papers**.

From the above records, I find that the date of the newspaper publication, i.e., **24.06.2019**, is prior to the date of the Sale Notice, i.e., **26.06.2019**. The Defendant Bank has not produced any material evidence or explanation to establish the circumstances under which the Sale Notice was published in the newspapers even before the issuance of the Sale Notice dated 26.06.2019. Hence, the discrepancy between the dates, the Rules and the amount of loan

dues of the Sale Notice and its newspaper publication, remains unexplained by the Defendant Bank.

The Sale Notice postal acknowledgment cards copy **are annexed at Page 128 of the Typed Set of Papers.** Further, the Defendant Bank has produced the copy of newspaper publications of the Sale Notice in two leading newspapers, one in English and the other in Tamil which **are annexed at Pages 126 and 127 of the Typed Set of Papers** the newspaper publication produced by the Defendant Bank does not contain the name, place and date of publication of the newspaper. Further, the Defendant Bank has produced the copy of photograph affixture **which are annexed at Page 131 of the Typed Set of Papers** but on which date the Sale Notice was affixed is not mentioned.

8. In view of the aforesaid discrepancies and irregularities, I find that the Defendant Bank has failed to demonstrate strict compliance with the mandatory requirements prescribed under the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, particularly Rule 6 governing the sale of movable secured assets. Therefore, the impugned Sale Notice issued in respect of the movable secured assets Under Rules 8(5) and 9(1) of the Security Interest (Enforcement) Rules, 2002 cannot be sustained and is liable to be set aside. This Tribunal vide proceedings dated 30.07.2019 recorded the memo filed by the counsel for the Respondent Bank stating that since there was no bidder for the sale, the relief sought has become infructuous. In this case I also find sale was not held due to want of bidders.

In the result,

(a) SA No. 368/2019 is disposed off.

(b) The expenditures incurred in issuance of Sale Notice dated 26.06.2019 shall not be included in the loan account of the Applicant.

(b) The defendant bank is at liberty to initiate fresh action against the applicant for recovery of loan amount as per the SARFAESI Acts & Rules. Consequently, all pending IAs (if any) are also disposed off. No costs.

(Dictated to KKN taken down, transcribed, typed by him, corrected and pronounced by me in the Open Court in this the 06th October, 2026).

Sd/-
(SEEMA SINHA)
PRESIDING OFFICER

Uploaded on 13.10.2026