Case Citation: (2026) ibclaw.in 844 DRT

RAMESHWAR KOTHE
Presiding Officer
Govt. of India
Ministry of Finance
DEBTS RECOVERY TRIBUNAL-2
Abids, Hyderabad-500 001.

IN THE DEBTS RECOVERY TRIBUNAL–II AT HYDERABAD

DATED THIS THE 12TH DAY OF OCTOBER, 2026

PRESENT: SH. RAMESHWAR KOTHE,B.Com, L.LB.(Hons.), M.A.
PRESIDING OFFICER

Securitization Application No.293 OF 2018

1. Sri Ravi Srinivas, S/o Kodanda Ram Rao
   Aged about 54 years, Occ:Business

2. Smt.S. Geetha Kumari, W/o Ravi Srinivas
   Aged about 48 yeas, Occ:Housewife

   Both temporary R/o C/o Mr. Narasimha
   Varsha Sri Avenue-I, S-1, Ground Floor
   Raghavendra Nagar Colony
   Athvelly, Medhcal-501401

.....Applicants.

Versus

1. State Bank of India
   Stressed Assets Management Branch-II
   Hyderabad D.No.3-4-1013/A, First Floor
   CAC. TSRTC Bus Station, Kachiguda, Hyderabad

2. Ms Manne Sindhuja Reddy
   D/o Dr. M. Satyanarayana Reddy
   H.No.8-3-167/17/16, Kalyan nagar
   Phase-I, Hyderabad 500 038

3. Smt. Krishnaveni Nallagonda
   W/o Visweswara Rao Vaidya
   Aged about 44 years, Occ:Employee
   R/o H.No.1-17-59/15/1, Ramnagar Colony
   Temple Alwal, Secunderabad 500010

.....*Respondents.*

Ld. Counsel for the Applicants : *Sri G.K. Deshpande*
Ld. Counsel for 1st Respondent Bank: *Sri Hari Prasad Podila*
Ld. Counsel for 2nd Respondent : *Sri S. Ravi, Ld.Designated Senior Counsel for M/s RS Associates*

Respondent No.3 : *Ex parte* 12.10.26

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-: O R D E R :-

1. The Applicants filed the present Securitisation Application u/s.17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter "the Act" for short) to declare the NPA as illegal and consequently set aside the demand notice dated 17.05.2016 issued under Sec.13(2), possession notice dated 02.09.2016 issued under Sec.13(4) of the Act, 2002, e-auction sale notices dated 18.01.2017, 13.07.2018, sale certificates dated 27.03.2018 and 31.03.2018 issued in favour of 2 and 3 and consequently order redelivery of SA schedule properties to the Applicants.

2. The case of the applicants as per averments of the application, in brief, is that they are allegedly guarantors/mortgagors to the loan facilities granted by the 1st Respondent Bank to M/s Super Agri Seeds Private Limited which availed various credit facilities totalling to Rs.48.80 crores between 2011 and 2015. There is no default in operating the account. However, the 1st respondent bank started writing letters to rectify irregularities. In spite of granting time of three months vide letter dated 09.05.2016 to rectify the irregularity in CC account and informing that account would be classified as NPA if interest/instalments were not received within three months, the 1st Respondent Bank illegally classified the account as NPA and issued demand notice on 17.05.2016 u/s 13(2) of the Act. After receipt of demand notice, the borrower paid Rs.1.17 crores and made alternative arrangement for settlement through third party investors. Thereafter account was transferred to SAM Branch which informed vide letter dated 02.08.2016 that account was classified as NPA on 09.05.2016 and called upon to submit concrete strategy/plan of

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resolution within fifteen days and thereafter on 02.09.2016 issued possession notice as per Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 which clearly reflected payment of Rs.1,26,90,000/- after demand notice. After issuance of legal notice and Rule 8(6) notice of 30 days, borrower company submitted OTS proposal which was finally agreed at Rs.25.50 crores by the Bank vide letter dated 03.05.2017. Without any reason the Bank backed out and issued e-auction sale notice dated 31.07.2017. Aggrieved by the action, borrower Company filed SA No.300/2017 wherein the Tribunal passed interim order not to confirm the auction impugned therein subject to deposit of 30% of the debt. Due to paucity of funds amount was not deposited and the borrower Company went into liquidation, and the Bank auctioned Schedule B to D properties on 08.09.2017 which are personal properties of Applicants herein. Since the Applicants have no legal say due to NCLT proceedings, the cause continues to protect the personal properties. The Respondent Bank also issued e-auction sale notice dated 13.07.2018 fixing auction on 08.08.2018 in respect of Schedule A and E properties.

3. The grounds urged are, the classification of account as NPA without continuous default for 90 days not only against RBI guidelines but also ratio decided in Rita Bagga & Ors vs. Union of India, 2015 (2) DRTC 153 (AD) by Hon'ble Allahabad High Court; two different NPA dates as 10.05.2016 and 09.05.2016 in demand notice dated 17.05.2016 and letter dated 30.11.2016 respectively; the possession notice was neither served nor affixed and published as per Rules of 2002; the e-auction sale notice dated 31.07.2017 based on sale notice dated 18.01.2017 containing no reserve price and no date of auction; the valuation obtained by the Bank was improper and an year old prior to auction hence not in accordance with Rule 8(5) of the

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Rules, 2002; no Rule 8(6) notice was served in respect of e-auction sale notice dated 13.07.2018 and mandatory gap of 30 days was not maintained; the e-auction sale notice was not also not affixed on secured assets and violation of Rules 9(3) and 9(4) of the Rules, 2002. Hence all the notices and sale certificates are liable to be aside.

4. The 1st Respondent Bank filed reply statement along with documents stating, *inter-alia*, that SA is not filed within time limit from Sec.13(4) measures hence barred by limitation. The sale notice dated 13.07.2018 was subject matter of previous SA No.300/2017 which was dismissed for default hence it cannot be questioned in this SA. As far as NPA categorization is concerned, after availing credit facilities, the borrower company defaulted in payment as per agreed terms therefore the account became NPA on 10.05.2016 followed by demand notice dated 17.05.2016. No objections were raised except making some meagre payments. Bank denies that the borrower company approached the Bank to clear the loan liability/rectify the irregularities or that it operated the account. The possession notice dated 02.09.2016 was served on Applicants as admitted by them, published in "The New Indian Express" and "Andhra Jyothi" newspapers on 08.09.2016 besides affixture on secured assets. Notice prior to sale was issued on 18.01.2017, served on Applicants. Reserve price was fixed after obtaining valuation reports from approved valuers. The e-auction sale notice dated 31.07.2017 was issued, published on 02.08.2017 in "The New Indian Express" and "Eenadu" English and Telugu newspapers. Pursuant to failure of borrower company to comply the conditional order in SA No.300/2017, the Bank conducted the auction and sold SA schedule B to D properties wherein 2nd Respondent purchased Schedule B and C properties and 3rd Respondent purchased Schedule D property. Thereafter,

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Respondent Bank issued Rule 8(6) notice dated 13.07.2018 in respect of Schedule A and E properties, obtained valuation reports, fixed reserve price. The e-auction sale notice fixing e-auction on 08.08.2018 was published in "The New Sunday Express" and "Eenadu" newspapers besides affixture. In the said auction, Schedule-E property could be sold. The OTS failed for non-adherence of terms thereof by the Applicants and not that Bank refused to go ahead. Mentioning of NPA date as 09.05.2016 in letter dated 30.11.2017 is only an inadvertent mistake anyhow, the NPA date i.e.,10.05.2016 stated in statutory notice is correct. The proceedings before Hon'ble NCLAT concluded. The possession notice was served, published and affixed on secured assets. Bank denies violation of Rules 8(1), 8(2), 8(5), 8(6), 8(7), 9(3) and 9(4) of the Rules, 2002. Accordingly sought for dismissal of the SA with exemplary costs.

5. The 2nd Respondent-auction purchaser also filed Reply statement. The submissions, briefly are, that the present Application is hit by principle r*es judicata*, as SA No.300/2017 was dismissed for default. The 2nd Respondent participated in the e-auction conducted by the Bank on 08.09.2017 in respect of Schedule B and C properties, stood as successful bidder and upon payment of bid amount sale certificate has been registered in her favour on 27.03.2018. The sale notice contains reserve price and the date of auction. Admittedly the properties belong to guarantors and hence NCLT proceedings do not have impact on such properties. The Applicants filed the present SA on 26.07.2018 whereas sale was registered on 27.03.2018 whereas right of redemption stood extinguished as per judgment of Hon'ble Apex Court in *Dwarika Prasad vs. State of Uttar Pradesh*. She sought for dismissal of the SA.

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6. Rejoinder filed by the Applicants stating that auction was conducted on 08.09.2017 whereas, the 2nd Respondent paid 15% of bid amount on 11.09.2017 and 75% on 22.03.2018; the 3rd Respondent paid 15% on 08.09.2017 and 75% on 27.03.2018. Applicants deny the explanation of the Bank that Hon'ble NCLT kept the auction proceedings on hold vide order dated 06.09.2017, made absolute the order on 18.09.2017 and existed till 21.03.2018 hence the 75% bid amount was collected thereafter. According to Applicants, Applicants filed WP No.12898/2018 seeking relief to set aside the auction conducted on 08.09.2017 on the ground that interim order dated 06.09.2017 barred the Bank from conducting the auction. The Respondent Bank admitted before Hon'ble High Court that personal properties were sold in the auction and hence protection meant for corporate debtor was not available. WP was dismissed accordingly. Therefore, when NCLT orders are no way connected, there should have been no bar for the Bank to collect 75% bid amount without regard to NCLT orders. Therefore, there is clear violation of Rule 9(4) of the Rules, 2002. Further, vide order dated 14.08.2020 the Hon'ble High Court directed the Tribunal to decide SA No.293/2018 without reference to the dismissal order dated 07.01.2019 in SA No.300/2017 on merits, in accordance with law. Therefore, all the contentions raised in the present SA are available for adjudication.

7. Respondent No.3 Auction Purchaser was set ex parte as called absent and no representation despite service of notice.

8. Heard Sri G.K. Deshpande, learned counsel for Applicants, Sri Hari Prasad Podila, learned counsel for 1st respondent bank and Sri S. Ravi, learned designated senior counsel on behalf of M/s R.S. Associates for 2nd respondent-auction purchaser. Perused the written

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submissions filed for the Applicants and 2nd Respondent. Also perused the material documents filed by the parties.

9. Learned counsel for the Applicants contends that the Applicants stood as guarantors and mortgagors in respect of the credit facilities sanctioned by Respondent No. 1 Bank to M/s Super Agri Seeds Private Limited. Under the arrangement letter dated 05.03.2015, the sanctioned facilities aggregated to Rs.48.80 crore, including a cash-credit hypothecation facility of Rs.45 crore. According to learned counsel, although certain irregularities arose in the cash-credit account in November 2015, the borrower continued to operate the account and made payments towards the liability. The Bank, by communications dated 02.05.2016 and 09.05.2016, called upon the borrower to regularise the account and furnish the requisite financial and stock statements and other information. Bank prematurely classified the account as a non-performing asset (NPA) with effect from 10.05.2016 and issued the demand notice dated 17.05.2016 claiming Rs.46,38,03,629/- as outstanding on 12.05.2016. Reliance is placed on the statement of account at page 84 of the S.A. paper book, which allegedly reflects an outstanding balance of Rs.44,99,09,862/- as on 31.03.2016 against the sanctioned cash-credit limit of Rs.45 crore. It is further contended that an interest entry of approximately Rs.50,03,953/- was made on 31.03.2016 and that the account could not have been classified as an NPA merely on that basis without applying the relevant Reserve Bank of India (RBI) prudential norms. In support of the above contention, learned counsel relies upon **Rita Bagga v. Union of India, 2015 (2) DRTC 153 (AD),** concerning the RBI norms governing cash-credit accounts, the servicing of quarterly interest and the test for determining whether an account is "out of order". It is contended that the account statement,

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drawing power, interest entries, subsequent credits and the Bank's communications must be examined together to determine whether the classification with effect from 10.05.2016 complied with the applicable norms. Learned counsel also refers to payments made after issuance of the demand notice, including an amount stated to be Rs.1.17 crore, and submits that the same must be reconciled with the Bank's account statement and the amount claimed.

10. Learned counsel further contends that the borrower had proposed a one-time settlement, initially for Rs.21 crore, subsequently enhanced to Rs.24 crore and finally to Rs.25.50 crore. By communication dated 03.05.2017, the Bank allegedly approved the proposal in principle, subject to stipulated conditions. It is submitted that the subsequent auction proceedings must be examined in the context of these negotiations, without treating the conditional approval as an unconditional or concluded settlement.

11. Learned counsel submits that the possession notice dated 02.09.2016 and the subsequent sale proceedings are also open to scrutiny regarding compliance with the statutory requirements of service, affixture and publication of notices, valuation and fixation of reserve prices. Reliance is placed upon the valuation reports dated 07.06.2016 and 27.08.2016 concerning Schedule B and C properties, the report dated 07.06.2016 concerning Schedule D property, and the reports dated 25.05.2016 and 27.07.2016 concerning Schedule E property. It is contended that the Bank must establish that the valuations and reserve prices complied with Rule 8(5) of the Security Interest (Enforcement) Rules, 2002, having regard to the relevant dates of sale and the material considered by the valuers. In this regard, learned counsel relies upon **Mathew Varghese v. M.**

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Amritha Kumar, (2014) 5 SCC 610, and submits that the requirements of Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002, governing the sale of secured immovable property are mandatory and must be complied with. It is contended that the sale notice dated 18.01.2017 and the subsequent e-auction notice dated 31.07.2017, along with the relevant valuation reports and publication records, require examination to determine whether the prescribed procedure and notice periods were duly observed.

12. Learned counsel further contends that the auction of Schedule B to D properties conducted on 08.09.2017 was not completed in accordance with Rules 9(3) and 9(4) of the aforesaid Rules. Referring to the Bank's counter affidavit in I.A. No. 3035 of 2023/2024, learned counsel submits that Respondent No. 2 allegedly paid an amount described as 15% on 11.09.2017 and the balance 75% on 22.03.2018, whereas Respondent No. 3 allegedly paid 15% on 08.09.2017 and the balance 75% on 27.03.2018. It is contended that the Tribunal must examine the earnest money deposited, the total amount paid within the period prescribed for the initial deposit of 25%, the dates of confirmation of sale, and the existence and validity of any written extension for payment of the balance consideration. According to learned counsel, acceptance of the balance consideration beyond the prescribed period, without a valid extension permitted under Rule 9(4), would require examination of the legality of the sales and the consequential sale certificates.

13. Learned counsel relies upon **M. R. Vasumathi v. The Authorized Officer & Ors. , 2026 INSC 633,** to contend that the violation of the mandatory rule will nullify the entire process and that

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the auction purchaser cannot be allowed to plead that since sale certificate is issued, the sale cannot be cancelled.

14. Learned counsel refers to the orders dated 06.09.2017, 18.09.2017 and 21.03.2018 passed by the National Company Law Tribunal, Hyderabad Bench, and the proceedings in W.P. No. 12898 of 2018 before the Hon'ble High Court of Telangana. It is contended that the effect of those orders upon the auction of the Applicants' personal properties must be determined from their actual terms and operative directions. Learned counsel submits that the Bank must establish the legal basis for the delayed receipt of the sale consideration and demonstrate compliance with the applicable SARFAESI Rules.

15. Learned counsel submits that the maintainability of the present S.A. must be considered in the light of the order passed by the Hon'ble High Court in W.P. No. 12720 of 2020. The High Court directed the Tribunal to decide S.A. No. 293 of 2018 on its own merits, without reference to the dismissal order dated 07.01.2019 in S.A. No. 300 of 2017. It is therefore contended that the dismissal of the earlier S.A. for default cannot be treated as a bar to adjudication of the present application, which concerns enforcement measures affecting the Applicants' personal properties.

16. On the question of limitation, learned counsel submits that the challenge must be considered with reference to the nature and date of each impugned measure and the relief sought under Section 17(1) of the SARFAESI Act. It is contended that the sale certificates dated 27.03.2018 and 31.03.2018, the auction conducted on 08.09.2017 and the notices dated 13.07.2018 concerning Schedule A and E properties require separate consideration as per law. Learned counsel

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reiterates that the present S.A. must be adjudicated in accordance with the directions of the Hon'ble High Court in W.P. No. 12720 of 2020.

17. Learned counsel also seeks consideration of the claim for compensation and damages of Rs.1 crore, together with costs, in accordance with the applicable statutory provisions.

18. With the above contentions, learned counsel prays that the S.A. be allowed with costs, compensation and damages.

19. The learned counsel appearing for the 1st Respondent Bank, reiterating the averments of the reply statement and counter-affidavit, submitted that the present S.A. is not maintainable either in law or on facts and is barred by limitation, having been filed beyond the prescribed period from the measures taken under Section 13(4) of the SARFAESI Act, 2002. It is submitted that, upon the borrower company committing defaults in repayment of the credit facilities, its account was classified as NPA on 10.05.2016, followed by issuance of the demand notice dated 17.05.2016. The possession notice dated 02.09.2016 was duly served on the applicants, published in *The New Indian Express* and *Andhra Jyothi* on 08.09.2016, and affixed on the secured assets. The notice prior to sale dated 18.01.2017 was also served, and the e-auction sale notice dated 31.07.2017 was published on 02.08.2017 in *The New Indian Express* and *Eenadu*. The learned counsel submitted that the reserve prices were fixed on the basis of valuation reports obtained from approved valuers and that the Bank had complied with the applicable provisions of the Security Interest (Enforcement) Rules, 2002. The allegation that the Bank violated Rules 8(1), 8(2), 8(5), 8(6), 8(7), 9(3) and 9(4) of the said Rules was

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specifically denied. It was clarified that the reference to 09.05.2016 as the NPA date in its letter dated 30.11.2017 was an inadvertent error and that the correct date was 10.05.2016, as stated in the statutory notice.

20. The learned counsel further submitted that, pursuant to the borrower company's failure to comply with the conditional order passed in I.A. No. 2226 of 2017 in S.A. No. 300 of 2017, the Bank proceeded with the e-auction conducted on 08.09.2017 in respect of Schedule B to D properties. Respondent No. 2, Smt. Manne Sindhuja Reddy, purchased Schedule B and C properties, whereas Respondent No. 3, Smt. Krishnaveni Nallagonda, purchased Schedule D property. Respondent No. 2 paid Rs. 71,30,000/- towards earnest money deposit on 06.09.2017, Rs. 1,74,45,000/- on 11.09.2017 and the remaining sale consideration of Rs. 7,37,25,000/- in March 2018. The learned counsel explained that the balance consideration could not be received earlier owing to the interim orders passed by the Hon'ble NCLT, Hyderabad Bench, in C.P. (IB) No. 172/10/HDB/2017. Though the e-auction was permitted to proceed, further proceedings relating thereto were kept in abeyance, and the restraint continued until the liquidation order dated 21.03.2018. He relied upon the judgment of Hon'ble High Court for the State of Telangana in **M/s S.K. Cars Lounge v. Union of India and others in WP No.17898 of 2022 decided on 26.04.2022** in support of his contention that the balance sale consideration was received in the circumstances arising from the said judicial orders.

21. The learned counsel also submitted that, by order dated 06.09.2017 in I.A. No. 2226 of 2017 in S.A. No. 300 of 2017, this Hon'ble Tribunal had directed the Bank not to issue sale certificates,

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subject to the applicants depositing 30% of the outstanding amount in two instalments. However, the applicants failed to comply with the said condition, thereby enabling the Bank to proceed further in accordance with the order. It was contended that the applicants, having failed to comply with the conditional order, could not seek relief through belated proceedings, particularly when the petition seeking particulars of payments made by the auction purchasers was filed only when the main S.A. was posted for final arguments. The learned counsel pointed out that the applicants had neither specifically disputed the auction purchasers' payments in the original S.A. nor filed a rejoinder to the Bank's reply statement and that the subsequent petition was intended to delay the disposal of the main proceedings.

22. The learned counsel further submitted that the sale notice dated 13.07.2018, issued under Rule 8(6) of the Rules, 2002, related to Schedule A and E properties, which were distinct from Schedule B and C properties purchased by Respondent No. 2. The Bank obtained valuation reports, fixed reserve prices and conducted the subsequent e-auction after publication in *The New Sunday Express* and *Eenadu*, besides affixture, pursuant to which Schedule E property was sold. It was contended that the subsequent sale notice concerning different properties could not revive a time-barred challenge to the earlier auction. The Bank also relied upon the earlier proceedings in S.A. No. 300 of 2017, which had been dismissed for default, and opposed the applicants' attempt to reagitate the same issues in the present S.A. The learned counsel denied that the Bank had refused to proceed with the One-Time Settlement and submitted that the settlement failed due to the applicants' non-compliance with its terms. Maintaining that the statutory measures and auction proceedings were conducted in

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accordance with law, the learned counsel sought dismissal of the S.A. with exemplary costs.

23. The learned Designated Senior Counsel appearing on behalf of Respondent No. 2, Smt. Manne Sindhuja Reddy, submits that the present SA insofar as it seeks to challenge the auction and sale of Schedule B and C properties purchased by Respondent No. 2, is liable to be dismissed as barred by limitation and as being unsustainable in view of the principles governing successive proceedings and abuse of process. Respondent No. 2 is the successful bidder in the e-auction conducted on 08.09.2017 in respect of Schedule B and Schedule C properties and, having complied with the payment obligations, acquired valuable rights culminating in the execution and registration of the Sale Certificate dated 27.03.2018, registered as Document No. 2241 of 2018.

24. It is further submitted that Respondent No. 2 paid an amount of Rs. 71,30,000/- towards Earnest Money Deposit on 06.09.2017. The first balance instalment of Rs. 1,74,45,000/- was paid on 11.09.2017, being the next working day following the auction dated 08.09.2017, as 09.09.2017 was the second Saturday and 10.09.2017 was a Sunday. The final balance instalment of Rs. 7,37,25,000/- was paid in 2018 immediately upon the National Company Law Tribunal, Hyderabad Bench, ordering liquidation of the borrower company, thereby removing the restraint on further proceedings imposed by its earlier interim order dated 06.09.2017 in C.P. (IB) No. 172/10/HDB/2017. Upon completion of the payment and requisite formalities, the Sale Certificate was executed and registered in favour of Respondent No. 2 on 27.03.2018 vide Document No. 2241 of 2018. The circumstances surrounding the payment of the final instalment

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must, therefore, be appreciated in the context of the restraint operating pursuant to the proceedings before the National Company Law Tribunal, and Respondent No. 2 cannot be faulted for the timing of the final payment where the impediment to further proceedings had to be removed.

25. The learned Designated Senior Counsel further submits that the present SA is barred by limitation under Section 17(1) of the SARFAESI Act, 2002. The said provision prescribes a period of 45 days for an aggrieved person to approach this Hon'ble Tribunal against a measure taken under Section 13(4) of the Act. In the present case, the relevant Possession Notice was issued in the year 2016, whereas the present proceedings were instituted well beyond the prescribed period of 45 days and even beyond a further period of 365 days thereafter. The applicants cannot be permitted to circumvent the statutory period of limitation by relying upon subsequent events or notices that do not pertain to the properties purchased by Respondent No. 2. The limitation applicable to a challenge to a particular enforcement measure cannot be revived merely by reference to a subsequent measure concerning distinct properties. Accordingly, the application, insofar as it seeks to challenge the auction and sale in favour of Respondent No. 2, deserves to be dismissed as barred by limitation, subject to the determination by this Hon'ble Tribunal of the precise measures challenged and the relevant dates borne out by the record.

26. It is further submitted that the principal borrower company had earlier instituted S.A. No. 300 of 2017 before this Hon'ble Tribunal, seeking reliefs in relation to the very same auction and the same properties. The present applicants are now seeking substantially

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identical reliefs in respect of the same subject matter. The earlier proceedings and the present proceedings must, therefore, be examined together to determine whether the applicants are attempting to reagitate issues already raised in the earlier proceedings. The law does not encourage repetitive litigation concerning the same subject matter, particularly where such proceedings may prejudice rights acquired in the meanwhile by a third-party auction purchaser. The applicants ought not to be permitted to multiply proceedings in respect of the same auction and properties in a manner that defeats the principles of finality and judicial discipline.

27. In support of the aforesaid submission, reliance is placed upon the judgment of the Hon'ble Supreme Court in ***Sarguja Transport Service v. State Transport Appellate Tribunal, M.P., Gwalior and Others*, (1987) 1 SCC 5**, wherein the Hon'ble Supreme Court considered the principle underlying Order XXIII Rule 1 of the Code of Civil Procedure, 1908, and held that a litigant who withdraws or abandons proceedings without obtaining liberty to institute fresh proceedings in respect of the same subject matter may be precluded from instituting fresh proceedings on such subject matter. The Hon'ble Supreme Court explained that the principle underlying Order XXIII Rule 1 is founded upon public policy and is intended to prevent abuse of the judicial process by repeated proceedings concerning the same subject matter. Though the said principle is distinct from strict *res judicata* under Section 11 of the Code of Civil Procedure, it is relevant to the consideration of successive proceedings where the earlier litigation was abandoned or withdrawn without liberty to commence fresh proceedings.

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28. Respondent No. 2 is a third-party auction purchaser who participated in the e-auction and made payments towards the purchase price in the circumstances stated above. The Sale Certificate was thereafter executed and registered in her favour on 27.03.2018. The rights acquired by Respondent No. 2 are required to be considered in accordance with the applicable provisions of the SARFAESI Act, the terms of the auction and the orders passed by the competent forums. Such rights ought not to be disturbed merely on the basis of belated or repetitive challenges that fail to satisfy the statutory and legal requirements for interference. The applicants must establish a legally sustainable ground for setting aside the auction or sale, and in the absence of such a ground, the sale in favour of Respondent No. 2 ought not to be disturbed.

29. With the above submissions, learned designated senior counsel sought for dismissal of the SA.

30. Now, the points that arise for consideration are:-

(i) *Whether the Applicants made out any valid ground to set aside the measures of the Respondent Bank aginast the SA schedule properties under the provisions of the Act, 2002, including auction sales held pursuant to sale notices dated 31.07.2017 and 13.07.2018 in respect of the SA schedule properties, as prayed for?*

(ii) *To what relief?*

Point No. (i):

31. The 1st Respondent Bank and Respondent No. 2 have raised a preliminary objection that the present S.A. is barred by limitation, as the possession notice was issued on 02.09.2016, the present

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proceedings were instituted only on 26.07.2018 and that the earlier S.A. No. 300 of 2017, instituted by the borrower company, prevents the Applicants from reopening the same controversy.

32. The Applicants challenge not only the demand and possession notices issued in 2016 but also the auction conducted on 08.09.2017, the sale certificates registered on 27.03.2018 and 31.03.2018, and the subsequent sale proceedings initiated by notice dated 13.07.2018. It is relevant that the Hon'ble High Court, by its order dated 14.08.2020 in W.P. No. 12720 of 2020, directed this Tribunal to decide S.A. No. 293 of 2018 on its own merits, without reference to the dismissal order dated 07.01.2019 in S.A. No. 300 of 2017. The said direction must be given effect to. The dismissal of the earlier S.A. for default cannot, contrary to the express direction of the Hon'ble High Court, be treated as an automatic bar to adjudication of the present S.A. on its merits. The principle laid down in **Sarguja Transport Service v. State Transport Appellate Tribunal, M.P., Gwalior, (1987) 1 SCC 5**, does not justify disregarding a specific judicial direction to adjudicate the present application on its merits. Accordingly, the preliminary objection based solely on the dismissal of S.A. No. 300 of 2017 is rejected.

33. The Applicants contend that the account of M/s Super Agri Seeds Private Limited was classified as NPA with effect from 10.05.2016 without satisfying the applicable RBI prudential norms. They rely upon the account statement, the sanctioned cash-credit limit of Rs.45 crore, the interest entries and the payments made towards the liability. They also point out the discrepancy between the NPA dates referred to in the Bank's communications. The Bank, on the other hand, maintains that the borrower failed to comply with the

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repayment and regularisation requirements and that the reference to 09.05.2016 in a subsequent communication was an inadvertent error. Admittedly, the borrower company ordered for liquidation. The Applicants being personal guarantors and mortgagors cannot be permitted to independently challenge the classification of borrower company's account as NPA as illegal, especially when the company itself went into liquidation and admitted its default as per NCLT findings. The interests of the Applicants must be confined to their personal properties qua SA schedule properties.

34. However, the classification of a cash-credit account as NPA must be determined in accordance with the RBI norms applicable to the relevant period. The mere existence of a sanctioned credit limit or a particular balance in the account is not, by itself, conclusive of the account's status. In the absence of a conclusive reconciliation of the account statement, the applicable drawing power and the relevant RBI norms, this Tribunal is not inclined to declare the NPA classification illegal solely on the basis of the discrepancy in dates or the payments subsequently made. Hence the contention on NPA does not deserve acceptance.

35. The Applicants contend that the possession notice dated 02.09.2016 was not duly served, affixed or published thereby failed to follow mandatory requirements of the Security Interest (Enforcement) Rules, 2002. The Bank placed on record relevant documents along with Reply Statement as proof of compliance. Pages 8 to 19/A of those documents, amply prove that the possession notice was sent by registered post to the Applicants, affixed and published within prescribed time in The New Indian Express and Andhra Jyothi on

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08.09.2016. In view of sufficient proof material, this Tribunal finds no infraction of Rules 8(1) and 8(2) of the Rules of 2002.

36. The most substantial controversy concerns the auction conducted on 08.09.2017 and the subsequent payment of the sale consideration by the auction purchasers. Although the Applicants allege non-service of Rule 8(6) notice, the record reveals that the Rule 8(6) notice was served. The contention of the Applicants is that there is violation of Rules 9(3) and 9(4) of the Rules, 2002. The material placed before this Tribunal indicates that Respondent No. 2 paid Rs.71,30,000/- towards earnest money deposit on 06.09.2017, a further amount of Rs.1,74,45,000/- on 11.09.2017 and the remaining amount of Rs.7,37,25,000/- in March 2018. The sale certificate in her favour was registered on 27.03.2018 as Document No. 2241 of 2018. In respect of Schedule D property, the Applicants contend that Respondent No. 3 paid the initial amount on 08.09.2017 and the balance amount only on 27.03.2018, culminating in the sale certificate dated 31.03.2018, registered as Document No. 2396 of 2018. Rule 9(3) of the Security Interest (Enforcement) Rules, 2002, requires the purchaser to deposit the prescribed portion of the sale price, inclusive of the earnest money deposit, in the manner and within the period stipulated therein. There is justification for payment of 25% including EMD on 11.09.2017 as 09.10.2017 and 10.10.2017 were not working days. Rule 9(4) requires payment of the balance purchase money within fifteen days of confirmation of sale or within such extended period as may be agreed upon in writing between the purchaser and the secured creditor, subject to the maximum period prescribed by that Rule. These requirements are material safeguards governing the completion of a sale under the SARFAESI framework. The statutory time limits cannot be treated as optional merely

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because the secured creditor and the purchaser subsequently complete the transaction. Any extension must satisfy the requirements of the applicable Rule, and the record must establish the existence, terms and legal validity of such extension. In the present case, the balance consideration was received only in March 2018, several months after the auction conducted on 08.09.2017. The Bank attributes the delay to the proceedings before the National Company Law Tribunal, Hyderabad Bench, and the orders passed in C.P. (IB) No. 172/10/HDB/2017. Respondent No. 2 similarly contends that the final payment was made after the restraint affecting further proceedings ceased to operate.

37. The existence of judicial proceedings, however, does not dispense with the necessity of establishing compliance with Rule 9(4). The legal effect of the NCLT orders must be determined from their operative terms. In particular, it must be established whether the orders prohibited payment of the balance consideration, restrained confirmation of the sale, prevented issuance of the sale certificate, or otherwise imposed a legally binding restriction upon completion of the transaction in respect of the personal properties not pertaining to the company-in-liquidation. The distinction is material because a restraint upon one step of the proceedings does not necessarily establish that every other statutory requirement stood suspended.

38. The Bank and the auction purchasers rely upon the NCLT proceedings to explain the delay. Nevertheless, the sale could be completed only in accordance with the applicable statutory framework, read with any binding judicial directions. The record must disclose the relevant written agreement, if any, extending the period of payment, the date of confirmation of sale, the precise terms of the

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NCLT orders and the legal basis for accepting the balance consideration beyond the ordinary statutory period. The material facts stated in the pleadings disclose a substantial delay extending beyond the maximum period ordinarily permitted under Rule 9(4). The fact that the sale certificates were subsequently registered does not, by itself, validate a sale that was completed contrary to a mandatory statutory requirement. Registration is a consequential step and cannot cure an antecedent illegality in the sale process. Accordingly, the auction sales concerning Schedule B, C and D properties the e-auction sales and consequential sale certificates are liable to be set aside.

39. The Applicants further challenge the sale notice dated 13.07.2018 issued in respect of Schedule A and E properties, proposing an e-auction on 08.08.2018. Their principal contention is that the mandatory notice period was not maintained and that compliance with the requirements concerning service, publication, affixture and valuation has not been established. The date of the proposed auction is material. The period between 13.07.2018 and 08.08.2018 is less than thirty days. Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, read with the applicable provisions of Rule 9, requires compliance with the prescribed notice period for the sale of secured immovable property. The precise requirement must be determined with reference to the nature of the sale, the relevant prior notices and whether the proposed transaction was a first sale or a subsequent sale following an earlier unsuccessful attempt. The Bank contends that valuation reports were obtained, reserve prices were fixed, and the sale notice was published in The New Sunday Express and Eenadu, besides being affixed on the secured assets. Such steps are relevant, but they do not dispense with the requirement of maintaining the prescribed notice period.

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40. The Bank must establish compliance with the applicable notice requirements through the original notices, proof of service, publication records and affixture particulars. In the absence of proof that the applicable statutory period was observed, the sale proceedings cannot be sustained merely because the notice was published or the auction was subsequently conducted.

41. Further, Rule 8(5) requires the secured creditor to obtain the requisite valuation and fix the reserve price in accordance with law. The question is whether the valuation was obtained in compliance with the Rule and whether the reserve price was lawfully fixed having regard to the relevant circumstances. In the present case, the valuation reports placed at pages 20-91 with the Reply Statement, confirm that they were obtained in June 2016 whereas actions were fixed vide notices dated 31.07.2017 and 13.07.2018 i.e., there was a gap of more than a year which is a clear violation of Rule 8(5) of the Rules, 2002. Consequently, the sale proceedings based on obsolete valuation reports shall stand vitiated and accordingly, the sale proceedings and consequential sale certificates are liable to be set aside.

42. Hon'ble Apex Court's decision in **M.R. Vasumathi case (supra)** lends support to the case of the Applicants with regard to consequence of non-compliance of mandatory provision of the Act, 2002.

43. The Applicants rely upon the Bank's communication dated 03.05.2017 concerning a proposed One-Time Settlement of Rs.25.50 crore and contend that the Bank subsequently departed from the settlement arrangement. The Bank maintains that the settlement was

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conditional and failed owing to non-compliance with its stipulated terms. A conditional approval of a One-Time Settlement does not, by itself, extinguish the debt or prevent the secured creditor from proceeding against the secured assets. Mere existence of settlement negotiations cannot independently invalidate the enforcement measures.

44. The Applicants, besides setting aside of the impugned measures and sale certificates, also seek redelivery of the secured properties and compensation and damages of Rs.1 crore. The Applicants failed to establish the legal basis for such compensation, the loss actually suffered, the causal connection between the unlawful measure and the loss, and the Tribunal's jurisdiction to grant the particular relief claimed. The Applicants' claim for compensation and damages is, therefore, rejected for want of sufficient proof.

45. Due to admitted creation of mortgage and default by the borrower company, possessing the secured properties cannot be categorized as illegal. Applicants failed to make out any valid ground to order redelivery of auctioned properties.

46. For the reasons discussed above, the Securitisation Application deserves to be partly allowed to the extent that the impugned auction sales.

Point No.(ii):

47. In the result, the Securitisation Application is allowed in part, by setting aside the e-auction sales conducted on 08.09.2017 in respect of Schedule B, C and D properties pursuant to e-auction sale notice dated 31.03.2017 and the consequential sale certificates dated

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27.03.2018 and 31.03.2018, registered as Document Nos. 2241 of 2018 and 2396 of 2018 respectively in favour of Respondents 2 and 3;

48. The sale proceedings concerning Schedule E property pursuant to the sale notice dated 13.07.2018 shall also stand set aside along with consequential sale certificate issued if any.

49. Consequently the 1st Respondent Bank is directed to refund the sale consideration paid by the Respondents 2 and 3 together with interest @9% p.a. simple from the date of respective deposits till the date of payment.

50. The 1st Respondent Bank is also directed to take back the physical possession of the auctioned properties from the Respondents where possession of secured properties has been delivered;

51. The Applicants' claim for compensation and damages of Rs.1 crore is rejected for want of sufficient proof.

52. In the circumstances of the case, there shall be no order as to costs.

53. All pending interlocutory applications, if any, shall stand disposed of in terms of this order.

54. Communicate a copy of this order to the parties concerned and upload in the official website.

(Typed to my dictation by the Steno, corrected, signed and pronounced by me in the open court on this the 12th day of October, 2026).

12.10.2026

(RAMESHWAR KOTHE)
PRESIDING OFFICER

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