IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 21st day of October, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

IA Nos.1817 of 2025 & 1818 of 2025 of 2025
in
O.A. No.40 of 2025

1. M/s. Ansar Enterprises,
Rep. by its Proprietor Mr. N. Abdul Samad,
No.126, Hospital Road,
Madurantakam,
Chengalpattu District - 603 306

2. Mr. N. Abdul Samad,
S/o. Late P. Nagoor Meeran,

3. Mrs. Najumunisha,
W/o. Mr. N. Abdul Samad,

Both are residing at 13/29, Rayan Ramanujam Iyangar Street,
Madurantakam,
Chengalpattu District - 603 306. …..Petitioners / Defendants

-Vs-

M/s. Encore Asset Reconstruction Company Private Limited,
Having its Registered office at Caddie Commercial Tower,
Regus Business Centre, 5th Floor,
Aerocity (Dial) New Delhi -110037
Corporate office at Gurugram …..Respondent/Applicant

Counsels on record / appeared:

Counsel for Petitioners : M/s T.P. Savitha

Counsel for respondent : Dr. S. Sathiyanarayanan

: - ORDER ON IA NOs. 1817/2025 & 1818/2025 - :

1. The Petitioners, who are defendants in the OA, have filed IAs 1817/2025, a petition under Section 5 of Limitation Act praying to condone

delay of 64 days in filing set aside petition and IA No.1818/25, praying to set aside the ex-parte order dated 07.04.2025.

2. **Brief facts of the IA:**

2.1 It is the case of the petitioners that the above case came up for admission before the Registrar on 05.03.2025 and it was listed before the Bench on 07.04.2025. The notice issued by the respondent was not properly served to the petitioners by their relatives since the 2nd petitioner had gone along with his wife to Coimbatore to take medical treatment for his wife during the period. One month thereafter, the petitioners received the notice belatedly.

2.2 It is further submitted by the petitioners that thereafter during the month of May 2025 due to High Court vacation holidays, they were unable to contact their counsel. During June 2025, the petitioners contacted their counsel for verifying the court proceedings, who in turn had informed that the defendants were set ex-parte on 07.04.2025. The petitioners immediately instructed their counsel to file necessary application to restore the application. The non-representation on behalf of the petitioners on 07.04.2025 when the case was called is neither willful nor wanton but only due to the reasons stated above. The petitioners have got good case on merits and fair chance of success.

2.3 Hence, it is prayed by the petitioners to condone delay of 64 days of delay in filing the set aside application and to set aside the order dated 07.04.2025 setting defendants ex-parte in O.A.No.40 of 2025.

3. Brief averments of counter of respondent bank:

3.1 The Respondent/Applicant filed counter denying all the averments and allegations contained in the Application, except to the extent specifically admitted thereunder. It is submitted by the respondent bank that the Petitioners/Defendants have preferred the present IA's seeking to condone the delay of 64 days in filing petition and to set aside the order of dismissal for default dated 07.04.2025 passed in O.A. No. 40 of 2025. The present Application is nothing but a sheer abuse of the process of law, filed with the sole intention to drag the proceedings, and deserves to be dismissed at the threshold.

3.2 It is submitted that the Respondent/Applicant has filed the present OA for recovery of a sum of Rs.33,38,52,191/- (Rupees Thirty Three Crores Thirty Eight Lakhs Fifty Two Thousand One Hundred and Ninety One Only), being the amount due as on 31.01.2023, together with further interest from the date of filing till the date of full realization.

3.3 The Respondent Bank contended that the 1st Petitioner/1st Defendant, being the principal borrower, had neither executed nor affirmed the applications seeking to set aside the ex parte order or the affidavits filed in support thereof and, therefore, the applications were not maintainable. It was further contended that summons in O.A. No. 40 of 2025 had been duly served on 31.01.2025 and acknowledged by the 2nd Petitioner/2nd Defendant. Despite service of summons on 31.01.2025 to the defendants, the Petitioners/Defendants failed to appear before the

Registrar on 05.03.2025 and before this Tribunal on 07.04.2025, resulting in they being set ex parte.

3.4 The Respondent Bank further submitted that the present IA filed by the Petitioners/Defendants are not maintainable in the eyes of law and is liable to be dismissed as the defendants have failed to comply with the statutory timelines prescribed under Section 19(5)(i) of the RDB Act, 1993, and relied upon the decision in *Anita Garg and Others v. SBI*, reported in 2021 SCC Online Del 4311, wherein it is held that the written statement should have been filed within 30 days subject to extension of another 15 days, for the reasons given and no opportunity or extension beyond the period of 45 days can be given. Accordingly, the Respondent Bank contended that the present IAs are devoid of merit and liable to be dismissed. The Respondent Bank also reserved its right to file an additional counter-affidavit, if necessary.

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

4. The bank has filed OA for recovery of a sum of Rs.33,38,52,191/- from the Defendants 1 to 4, along with interest and cost till the date of realization. After filling OA, the Tribunal ordered summons to Defendants 1 to 7, returnable by 05.03.2025.

5. The bank has taken summons as directed by the Tribunal. Summons sent to all the Defendants 1 to 4 were duly served. On 05.03.2025, the case was taken up before the Registrar Court, recording service of summons, the

defendants were called absent and the case was posted before the Bench on 07.04.2025. On 07.04.2025, as there was no representation for the defendants, despite receipt of summons, the defendants were placed ex-parte.

6. The records of the case clearly reflect that subsequent to setting them ex-parte, the defendants filed the present IAs on 10.07.2025 praying to condone delay of 64 days in filing petition to set aside the ex-parte order and to set aside the order dated 07.04.2025. After scrutiny, the IAs were numbered on 29.07.2025 and posted before the Bench for hearing.

7. It is the matter of fact that the affidavit filed along with IA does not support case as the petitioner has not justified the reason or cause in not filing the WS on time, despite receipt of summons. On the other hand, the applicant bank has taken summons as directed by this Tribunal following due procedures in taking out summons/ service of summons as prescribed under the law.

8. The contention of the Petitioners that the notice issued by the respondent was not properly served to them by his relatives, as the 2nd Petitioner/Defendant had gone to Coimbatore for his wife's medical treatment and the summons was received by his relatives, cannot be accepted. The records reveal that the summons addressed to D-1 and D-2 was received on 31.01.2025 by the 2nd Petitioner/Defendant himself, under the seal of 'Ansar Enterprises' for D-1. On perusal of the postal acknowledgment card, this Tribunal finds that the signature of the 2nd

Petitioner/2nd Defendant acknowledging receipt of the summons appears to correspond with the signature found in the loan documents produced by the Applicant Bank in the O.A. Further, the postal tracking report evidences service of summons to D-3 on 31.01.2025. Hence, the contention regarding non-service of summons is not acceptable.

9. The further contention of petitioners regarding medical treatment of 2nd petitioner's wife is not supported by any medical records or other documentary evidence. Hence, the said contention remains unsubstantiated.

10. Furthermore, the petitioners have failed to put forth any valid or sufficient reason for its non-participation in the proceedings, which resulted in the O.A. being proceeded with ex-parte. Having remained absent, despite receipt of summons, and having chosen to file the present I.As. when the matter has reached the stage of marking of documents, the defendants have failed to establish any justifiable or bona fide cause warranting the indulgence of this Tribunal. The explanation offered is neither legally sustainable nor equitable, and does not merit acceptance.

11. It is pertinent to note that the petitioners have come forward to contest the matter without any reasonable and justifiable grounds with a delay of 64 days, only with an intention to frustrate the proceedings. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Tribunal has no power to extend the period of limitation on

equitable grounds and has no power to ignore that provision to relieve what it considers a distress resulting from its operation as per the Judgement of Hon'ble Supreme Court in the matter of ***P.K. Ramachandran vs. State of Kerala*****, reported in (1997) 7 SCC 556, the Hon'ble Supreme Court** has held thus:-

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

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

12. It is axiomatic that condonation of delay is a matter of discretion of the Court. However, while there is no sufficient cause has been satisfactorily assigned by the petitioner for the inordinate delay of 64 days in preferring the application, the Tribunal is not inclined to condone the delay.

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

14. The Hon'ble Supreme Court in the said judgement observed that an application for condonation of delay has to be dismissed if it is found that the delay is not properly explained and that the period of limitation cannot

be extended on equitable ground. Otherwise, it would be giving a premium to a person who fails to explain the delay and who is guilty of delay and laches.

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

16. For better understanding S.19[5] is reproduced reads as under:

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

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

as mandated in section 19(5) are in consonance with the objective sought to be achieved by the Recovery of Debts and Bankruptcy Act, 1993.

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

19. In the instant case, the petitioners / defendants, despite receipt of summons, did not choose to enter appearance and file Written Statement. Further, in the IA for condonation of delay of 64 days in filing petition to set aside the ex-parte, the petitioners are coming up with untenable, frivolous and vexatious reasons.

20. For the foregoing reasons, the IA No.1817/2025 filed for condonation of delay of 64 days in filing petition to set aside the ex-parte order cannot be considered and the same stands rejected. Accordingly, IA.No.1817/2025 stands dismissed. Consequently, IA No.1818/2025 filed by the petitioner to set aside the ex-parte order dated 07.04.2025 also stands dismissed.

Sd/-

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

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