IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 13th day of October, 2026

PRESENT: **SHRI SHARANG DHAR UPADHYAY**
Presiding Officer

IA No.1295 of 2026 in
NDN (SA) No.1105 of 2026

K. Rameshkumar
Son of Kasinathan
No.273, Mettu Street, Oraiyur Village
Panruti Taluk, Cuddalore Town- 607 108
Rep. by his GPA Holder K. Raja
Son of Kasinathan
No.273, Mettu Street, Oraiyur Village
Panruti Taluk, Cuddalore Town- 607 108 **…Petitioner / Applicant**

Versus

1. The Authorised Officer
State Bank of India
Stressed Assets Recovery Branch
2nd Floor, Indian Red Cross Buildings
No.32, Montieth Road, Egmore
Chennai – 600 008

2. Mrs. Parameshwari
D/o Sivashanmugavel
Kulamanickam (West)
Ariyalur, Ariyalur Tk & Dt – 621 722 **…Respondents / Respondents**

ORDER

1. This Interlocutory Application is filed by the applicant praying to condone the delay of 74 days in filing the instant SA filed challenging the auction sale dated 16.3.2026 conducted by the 1st Respondent, pursuant to the Sale Notice dated 16.02.2026.

2. The SA is not numbered by the Registry for the reason that the same is filed beyond the period of limitation.

Case of the Petitioner / Applicant

3. This SA is filed challenging the auction sale dated 16.3.2026 conducted by the 1st respondent and concluded in favour of the 2nd Respondent. It is stated that the auction sale was conducted on 16.3.2026 and the sale notice dated 16.2.2026 was challenged by the applicant by filing SA No.105 of 2026. The IA filed by the applicant for stay of sale was dismissed by this Tribunal and hence the applicant had filed an appeal before Hon'ble DRAT, Chennai and said appeal was dismissed at the pre-numbering stage and in the meantime the sale was confirmed in favour of the 2nd Respondent and sale certificate was also issued in favour of the 2nd respondent and the same has also been registered.

4. On 14.5.2026, the applicant filed an application before the 1st respondent seeking certain information regarding the auction sale proceedings, however, the said information was not furnished, so I apprehend that the sale was not transparent and if the information is furnished, illegalities and arbitrariness of the 1st respondent would come to light. On 16.7.2026, I gave a reminder to the 1st Respondent and sought for the information. After waiting for the information until 11.7.2026, the applicant reliably understand that the 1st respondent is purposefully delaying the furnishing of information so as to prevent me

from filing the appeal challenging the auction and also to set aside the sale certificate. Hence the present appeal could not be filed in time hence the delay of 74 days in filing the appeal. The delay is neither willful nor wanton but for the bonafide reasons stated above. If the delay is not condoned the applicant will be put to great hardship. The applicant has good case on merits, the sale was conducted on 16.3.2026 and even before the lapse of 30 days from the date of sale, the sale certificate has been issued to the 2nd respondent by the 1st respondent without waiting for the applicant to redeem the mortgage.

Point for consideration

5. **Whether the instant application filed for condonation of delay of 74 days delay in filing the above SA is liable to be allowed?**

Answer to the Point for consideration

6. Section 17(1) of the SARFAESI Act, which reads as under, prescribes the period of limitation as 45 days for the purposes of challenging the measures initiated under the Act.

> **"17.** (1) Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorised officer under this Chapter, may make an application along with such fee, as may be prescribed, to the Debts Recovery Tribunal having jurisdiction in the matter **within forty-five days from the date on which such measure had been taken**:

> [Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.]"

7. Section 17(1) of the SARFAESI Act prescribes the period of limitation as 45 days from the date of measure. Therefore, the applicant ought to have filed the SA within 45 days from the date of the Sale Notice dated 29.10.2020. However, the same has been filed on 10.01.2025 with a delay of 1485 days.

8. In so far as the prayer to condone the delay in filing the SA is concerned, it would be pertinent to refer to the decision of the Hon'ble Apex Court. in "***Bank of Baroda and another Vs. Parasadilal Tursiram Sheetgrah Pvt. Ltd (AIR 2022 SC 3803)***", wherein the Hon'ble Supreme Court in para 12 had held as follows:-

> 12. " *the reason for providing a time limit of 45 days for filing an application under section 17 can easily be inferred from the purpose and object of the enactment. In Transcore v.Union of India and Another (2008(1) SCC 125) this court held that the SARFAESI Act is enacted for quick enforcement of the security. It is unfortunate that proceedings where a property that has been brought to sale had third party rights created under the provisions of the act, have remained inconclusive even after a decade."*

9. Moreover, it is no more res-integra that the proceedings under Section 17 of the SARFAESI Act is an original proceeding and necessary amendment in this regard had been brought out in the statute wherein the word 'appeal' had been substituted with 'application' in terms with the decision of the Hon'ble Supreme court in Transcore's Case reported in (2008) 1 SCC 125 holding that mentioning the Section 17

proceedings as appeal is a misnomer. Be that there is no provision for condoning the delay in original jurisdiction".

10. Moreover, in so far as the applicability of the provisions of the Limitation Act, 1963 is concerned, reliance can be placed upon the judgment of the Division Bench of the Hon'ble Calcutta High Court in "***Akshat Commercial Private Limited & Others v. Kaplana Chakraborty & Others (AIR 2010 CALCUTTA 138)"***, wherein the Hon'ble High Court after a detailed analysis has held that since the proceedings under Section 17(1) of the SARFAESI Act are original in nature like a suit, Section 5 of the Limitation Act does not apply to such proceedings and therefore, DRT does not have jurisdiction to condone the delay by allowing the application filed under Section 5 of the Limitation Act. It is to be noted that though Special Leave Petitions (Civil) No.17529-31/2010 were filed against the said judgment and leave was granted by the Hon'ble Supreme Court, however, in view of the settlement between the parties, the said appeals were disposed of by the Hon'ble Supreme Court vide order dated 15.12.2021.

11. Similarly, the Division Bench of the Hon'ble High Court of Madras in "***Velar Engineering Works Private Limited v. The Authorised Officer / Chief Manager, Indian Bank, Kanchipuram and Others – CRP(NPD) Nos. 3785-3787/2012 in W.P. No. 31251/2018"*** has held that Section 5 of the Limitation Act has no application in the original proceedings like a suit before the DRT and therefore, the DRT has no

jurisdiction to condone the delay in filing an SA by invoking Section 5 of the Limitation Act. Further, the appeal against the said order filed before the Hon'ble Supreme Court in SLP (Civil) Diary No.7023 of 2020 also was dismissed by the Hon'ble Supreme Court by its order dated 9.7.2020.

12. Further, in the recent ruling of the Hon'ble Apex Court in the case of "The Property Company (P) Ltd., Vs. Rohinten Daddy Mazda reported in 2026 LiveLaw (SC) 19, it has been held that the Tribunals have no power to condone the delay.

13. Hence on consideration of the above rulings of the Hon'ble High Courts and the Hon'ble Supreme Court, this Tribunal is of the view that there is no enabling provision permitting this Tribunal to condone the delay in filing application under Section 17 of the SARFAESI Act. Further, even on merits, the applicant has not made out a valid ground for condoning the delay.

14. For the aforesaid reasons, the following:

ORDER

IA No.1295 of 2026 stands dismissed. Consequently, the unregistered SA with SA Dy No.1105 of 2026 stands dismissed. All pending IAs stands closed. A copy of this order be communicated to the parties concerned.

Sd/-
(SHARANG DHAR UPADHYAY)
PRESIDING OFFICER
DRT-II CHENNAI

(Dictated to PS, who typed in the system directly, corrected, signed and pronounced by me in Open Court, on this 13th day of October, 2026)