Fair Order

**IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI**
DATED THIS 12TH DAY OF OCTOBER, 2026
**PRESENT: SEEMA SINHA**
**[PR. DISTRICT & SESSIONS JUDGE - Retd]**
**PRESIDING OFFICER**

**SA No.46/2024**

Mr. R.Arumugam,
S/o. Mr. N.V.Raman Achari,
Door No.62-B, Selvapuram 2nd Street,
Iravathanallur, Madurai-625 009. ..... Applicant

- Versus -

1. The Authorized Officer,
Indian Bank,
Anna Nagar Branch,
Plot No.393, Main Road,
Anna Nagar, Madurai-625 020.

2. Indian Bank,
Rep. by its Branch Manager,
Anna Nagar Branch,
Plot No.393, Main Road,
Anna Nagar, Madurai-625 020. ..... Defendant Bank

***Appearance of Advocates :***

***M/s Vastlaw Associates ..... Counsel for the Applicant***

***M/s R. Pandivel & Co. ..... Counsel for the Defendant Bank***

This SARFAESI Application was heard in the presence of Counsels for the Applicant, 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 Section 17(1) of the SARFAESI Act, 2002 by the Applicant praying that this Hon'ble Tribunal may be pleased

to stay all further proceedings pursuant to the Sale Notice dated 22.12.2023 issued by the Defendant Bank under Section 13(4) of SARFAESI Act 2002.

**2**. The brief case of the Application filed by the Applicant is as follows:-

(a) It is submitted that the applicant was doing manufacturing business of PTC poly carry bags as a small scale business as proprietorship firm in the name and style of "M/s.Siva Sakthi Traders" at Sourashtrapuram, Madurai. The applicant to develop his business approached the 2nd defendant bank and requested to provide credit facilities. The 2nd defendant bank sanctioned a sum of Rs.15.00 Lakhs in the nature of MSME OCC facility and a sum of Rs.1.09 Lakhs in the nature of FITL facility and a sum of Rs.1.01 Lakhs in the nature of WCTL facility on 26.03.2021. For the above loan transactions the applicant and his wife stood as guarantors for the due repayment of the loan. The schedule mentioned property belonging to the applicant was offered as collateral security. The defendants at the time of sanction obtained signatures from the applicant and the guarantor in prefilled forms and blank papers and the applicant and the guarantor have been kept in dark for what purpose the same have been used for.

(b) It is submitted that the applicant was very prompt in repaying the loan amount. But due to the restrictions in government policy the sale of the poly bags have been banned and the applicants business came to a standstill. In the meantime, due to the spread of Covid-19 pandemic virus and the continuous lock down announced by the Central Government and State Government, the applicant incurred heavy loss in his business and hence he could not repay the loan amount properly and hence the repayment was little bit irregular. Further the applicant closed his business at Sourashtrapuram and shifted to Iravathanallur and the above fact was also well known to the 2nd defendant bank. The 1st defendant without considering the various circulars issued by the Reserve Bank of India and Ministry of Finance with regard to the bad impact on Covid-19 pandemic

wrongly classified the applicant's loan account as Non Performing Asset (NPA) on 28.01.2022 and proceeded under SARFAESI Act.

(c) It is submitted that the applicant gave a onetime settlement proposal to the bank on 07.09.2023 but the bank did not have any proper reply to the same. While so to the shock and surprise the applicant through his well wishers came to know that the 1st defendant has published a sale notice bringing the applicant's property for sale. The applicant with great difficulty got the sale notice publication published by the 1st defendant in Dinathanthi daily on 27.12.2023 publishing the sale notice dated 22.12.2023 fixing the E-Auction Sale on 29.01.2024. The applicant was not served with the demand notice, possession notice and the impugned sale notice and the defendants are put to strict proof of service of all the above notices to the applicant.

(d) It is submitted that hence the applicant gave a fresh OTS offer for Rs.15.00 Lakhs by his representation dated 18.01.2024 enclosing his earlier representation dated 07.09.2023. The 2nd defendant (zonal office) by their letter dated 18.01.2024 simply rejected the applicant's offer for OTS and the same was received by the applicant on 19.01.2024.

(e) It is submitted that since the defendants rejected the applicant's OTS, the applicant requested the 2nd defendant by his representation dated 19.01.2024 to produce all the SARFAESI notices since the applicant never received any demand notice and possession notice and the sale notice issued by the defendant to approach this Hon'ble Tribunal. Only after the above request the applicant obtained the copies of the demand notice, possession notice and the sale notice issued by the 1st a defendant from the 2nd defendant only on 19.01.2024.

(f) It is submitted that after receiving the above copies the applicant came to know that the 1st defendant has issued a demand notice dated 05.03.2022 demanding a sum of Rs.17,76,382.31/- u/s.13(2)

of Act. Further the 1st defendant issued a Possession Notice dated 19.05.2022 and further issued a Notice of Sale dated 22.12.2023 fixing the Auction Sale on 29.01.2024. On verifying the above notices the applicant came to know that the 1st defendant has sent all the notices to the earlier address of the applicant and not to be present address. Hence the Applicant prefers the present SARFAESI Application under Section 17(1) of the SARFAESI Act, challenging the Notice of Sale dated 22.12.2023 before this Hon'ble Tribunal for the following and among other grounds.

- The impugned Notice of Sale dated 22.12.2023 and the entire measures initiated under the SARFAESI Act by the 1st Defendant are arbitrary, illegal, and against the provisions of SARFAESI Act and Security (Enforcement) Interest Rules.

- It is submitted that the defendants failed to follow the procedures contemplated in the Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 and security interest rules.

- The defendants wrongly classified the applicant's account as Non-Performing Asset (NPA). The defendants have not followed the Reserve Bank of India guidelines while classifying the account as NPA without affording opportunity to regularize the account.

- The 1st defendant has failed to furnish all the particulars as mentioned in the Act and Rules in the demand notice. Further the person who has issued the demand notice is not an authorized officer as contemplated under the Act. The 1st defendant is put to strict proof of service of demand notice to all the parties concerned. Further the 1st defendant has failed to publish the demand notice in two dailies since the applicant and other parties were not served with the demand notice.

- The defendants failed to publish the possession notice in two leading newspapers having vide circulations within the statutory period and

failed to affix the same on the schedule properties and failed to serve the same to all the parties concerned and failed to serve the possession notice through electronic modes to all the parties concerned. Further the person who has issued the possession notice is not an Authorized Officer as contemplated under the Act.

- The defendants at the time of sanction obtained signatures from the applicant and the guarantor in various prefilled forms and blank papers and the applicant and the guarantor were kept in dark all these days for what purpose it would be used for. Therefore, the applicant doubts that the above signed documents would have been misused by the bank.

- The 1st defendant failed to serve 30 days of sale notice to the applicant and all the parties concerned. Further the 1st defendant failed to affix the sale notice in the outer side of the schedule properties and failed to publish the same in two leading newspapers and failed to update the sale notice in the bank's official website as per the rules. Further the person who has issued the sale notice is not an authorized officer as contemplated under the Act.

- The defendants have classified the account as NPA, issued demand notice, possession notice and sale notice without considering the global problem, impact and the loss caused by the spread of Covid-19 pandemic.

- The Defendants have undervalued the properties and brought the same for sale which is against principles of natural justice. The 1st defendant before bringing the properties for sale should obtain fresh valuation as per the rules and the said valuation should be the best price in order to fetch higher price. But in the present case the 1st defendant failed to obtain fresh valuation and failed to fix best reserve price.

- The Applicant further alleges that the defendant bank has not furnished the complete statement of accounts as the details of

certain credits to the account are not reflected. Hence the Defendant bank has to be directed to produce/furnish a complete statement of accounts.

- It is submitted that the defendants failed to consider the payments made by the applicant and the applicant's request for one time settlement of the loan account.

- The Applicant submits that the Defendants have failed to register the alleged transactions registered with the Central Registry as per section 20 of the SARFAESI Act.

- The defendants have charged excessive rate of interest than the agreed rate of interest. The defendants have charged interest to the loan account during the time of moratorium announced by Ministry of Finance. Further they have charged penal interest which they are not entitled.

- It is submitted that the authorized officer is a quasi-judicial authority under the Act and hence the authorized officer must be from some other branch and not from the same branch having the loan account. The authorized officer has been vested with enormous powers under the SARFAESI Act and hence he must take due care and follow all the procedures contemplated under the Act while proceeding against the properties of the borrower and guarantor.

- The 1st defendant wantonly sent all the SARFAESI notices to the applicant's earlier address just to harass the applicant.

- The Applicant reserves his right to raise any additional grounds, if they come across during the pendency of the application.

**Description of the immovable property**

**(As mentioned in the Sale Notice)**

Vacant Land at Plot No.3, Kaveri 8th Street, Opp. to Govt. High School, Avaniapuram, Madurai-12, R.S.No.130/3, New S.No.130/12, Avaniapuram

Village, Madurai South Taluk, C.Ward No.100, Corporation of Madurai admeasuring 2987 Sq.ft.

Bounded by:

| | | |
|---|---|---|
| North | : | Abubakkar Lands now dwelling layout |
| South | : | Nagammal Achi lands & 20' Road |
| East | : | Plot No.4 |
| West | : | Plot No.2 |

The Applicant has filed the following list of documents in support of his claim in the SA, which is as follows:

| Sl.No. | Date | Description of documents |
|---|---|---|
| 1. | 05.03.2022 | Demand Notice u/s.13(2) |
| 2. | 19.05.2022 | Possession Notice u/s.13(4) |
| 3. | 22.12.2023 | Impugned Notice of Sale |
| 4. | 27.12.2023 | Sale Notice Publication in Dinathanthi Daily |
| 5. | 18.01.2024 | OTS Letter of the applicant |
| 6. | 18.01.2024 | Rejection of OTS by bank |
| 7. | 19.01.2024 | Applicant's request to produce all the SARFAESI notices |

**3.** On the other hand, the Counsel for the Defendant Bank appeared before this Tribunal and filed Vakalat, Reply statement and Typed set of papers.

a) It is submitted that the claim of the applicant is false & frivolous & baseless and the applicant is not entitled to any relief as claimed in the SARFAESI Application. Hence the SARFAESI Application has to be dismissed inlimine.

b) It is submitted that the save those that are here-in-after expressly admitted all other allegations mentioned in the SARFAESI Application are denied as absolutely false & totally misleading and the applicant is put to strict proof of every one of the said allegations.

c) It is submitted that the Defendant Bank begs to submit that under the heading “Facts of the Case” of the SARFAESI Application the applicant

has categorically admitted the borrowal of loan & execution of loan documents & creation of mortgage & default in payment.

d) It is submitted that the Defendant Bank strongly & vehemently & specifically denies each & every allegations under the heading “Facts of the Case” & “Grounds” of the SARFAESI Application. The applicant is put to strict proof of every one of the said allegations with valid & acceptable evidence. Most of the allegations are unwarranted so far as the matter-in-issue is concerned.

e) It is submitted that the Defendant Bank strongly & vehemently denies the allegations under the heading "Facts of the Case" & "Grounds" of the SARFAESI Application stating that at the time of sanctioning the loan, the bank has obtained signatures from the applicant & the guarantor in prefilled forms & blank papers and that the applicant had doubt that the above signed documents would have been misused by the bank and that the applicant was very prompt in repaying the loan amount and that due to various reasons, the applicant was not able to repay the loan amount and that the bank has wrongly classified the account as NPA and that the bank has not followed the RBI guidelines white classifying the account as NPA and that without giving opportunity to regularize the account, bank has declared the account as NPA and that without considering the global impact of Covid-19, bank has declared the account as NPA and issued the demand notice & possession notice and that the bank has rejected the OTS offer and that the applicant was not served with demand notice & possession notice & sale notice and that the applicant has requested the bank by his representation dt.19.01.24 to produce all the SARFAESI Notices since he has not received any SARFAESI Notice and that on foot of the representation, bank furnished the copies of the demand notice & possession notice & sale notice and that the bank has sent all the notices to the earlier address of the applicant and not to the present address and that the entire measures initiated under the SARFAESI Act by the bank is arbitrary & illegal & against the provisions of Act & Rules and that the bank has failed to

follow the procedures contemplated under the Act & Rules and that the bank has failed to furnish all the particulars mentioned in the Act & Rules in Demand Notice and that the person who issued the demand notice & possession notice & sale notice is not the Authorized person and that the bank has failed to serve demand notice, possession notice & sale notice to all the parties concern and that the bank has failed to publish the demand notice, possession notice & sale notice and that the bank has failed to affix the possession notice & sale notice on the conspicuous part of the property and that the bank has failed to serve 30 days of notice of sale and that the bank has undervalued the property and brought the property for sale which is against the principles of natural justice and that the bank has not obtained fresh valuation before issuing the sale notice and that the bank has failed to fix the best reserve price and that the bank has not furnished the statement of accounts and that certain credits were not reflecting in the statement of accounts and that the bank has failed to register the transaction with Central Registry and that the bank has charged excessive rate of interest than the agreed rate of interest and that the bank has charged penal interest and that the bank has charged interest during covid moratorium period and that the authorized officer must be from some other branch and not from the same branch which sanctioned the loan and so the sale notice has to be set aside as absolutely false, totally misleading & highly unsustainable; whereas the fact remains that

- It is submitted that the Bank has never obtained any signatures from the applicant and the guarantor in any prefilled forms & blank papers and so the question that the said documents would have been misused by the bank' does not & will not arise at all.

- It is submitted that the applicant was not prompt in repaying the loan amount. Bank is not accepting the alleged reasons stated by the applicant for non repayment the loan amount. Despite having sufficient means applicant has not repaid the loan.

- It is submitted that the Bank has rightly classified the account as NPA and that the bank has followed all the RBI guidelines while classifying the account as NPA and that despite giving sufficient opportunity to regularize the account; applicant has not utilized it and so the bank has declared the account as NPA that too only as per RBI guidelines and thereby issued the demand notice & possession notice.

- It is submitted that as per bank policy the applicant loan account was not eligible for OTS. So, the bank has rejected the OTS offer.

- It is submitted that the Defaulters were served on with demand notice, possession notice & sale notice. Further on the foot of the applicant's representation also once again bank has furnished copies of the demand notice, possession notice & sale notice.

- It is submitted that the applicant has not informed & furnished about alleged change of address to the bank.

- It is submitted that the entire measures initiated under the SARFAESI Act by the bank is neither arbitrary nor illegal nor against the provisions of Act & Rules and that the bank has followed all the procedures contemplated under the Act & Rules.

- It is submitted that the bank has furnished all the particulars in the Demand Notice as per the Act & Rules.

- It is submitted that the person who issued the demand notice, possession notice & sale notice is the Authorized Officer as defined under the Act.

- It is submitted that the Bank has published the demand notice, possession notice & sale notice in the newspapers and that the bank has also affixed the possession notice & sale notice on the conspicuous part of the property.

- It is submitted that the Bank has served 30 days notice of sale.

- It is submitted that the Bank has never undervalued the property and that the bank has obtained fresh valuation before issuing the sale notice and that the bank has fixed the best reserve price and so the act of the bank is not against the principles of natural justice.

- It is submitted that the Bank has furnished the statement of accounts to the applicant 'then & there' 'as & when' it was requested by the applicant and that all the payments made were duly credited in the loan account.

- It is submitted that the bank has registered the transaction with Central Registry.

- It is submitted that the bank has charged interest only as per Contract & RBI guideline and that the interest charged by bank is not excessive.

- It is submitted that it is not necessary that the authorized officer should be from so other branch which has not sanctioned the loan.

- So, the sale notice is not liable to be set-aside.

f) The Defendant Bank begs to submit that the applicant is not entitled to reserve any right to raise additional grounds. If any additional grounds are raised it is nothing but an afterthought. If any additional grounds are raised, then the defendant bank is entitled to file additional reply statement.

g) The Defendant Bank begs to submit that it has issued demand notice and published the demand notice both in Tamil Daily & in English daily.

h) The Defendant Bank begs to submit that it has taken symbolic possession of the property & issued possession notice and the possession notice was duly served on the applicant and affixed the possession notice on the conspicuous part of the property and the

possession notice was also published both in Tamil Daily & in English daily in time.

i) The Defendant Bank begs to submit that the defendant bank obtained valuation report from the approved valuer for the property who has assessed the value of the property and that the defendant bank has properly, rightly fixed the value of the property and reserve price.

j) The Defendant Bank begs to submit that it has issued sale notice and sale notice was duly served on the applicant and affixed the sale notice on the conspicuous part of the property and the sale notice was also published both in Tamil Daily & in English daily.

k) The Defendant Bank begs to submit that the applicant has not sent any reply to the 13[2] demand notice. Non sending reply to 13[2] demand notice is fatal to his case.

l) The Defendant Bank begs to submit that the applicant has not challenged the possession notice. Non challenging the possession notice is fatal to his case.

m) The Defendant Bank begs to submit that despite having knowledge the applicants have waived their right to challenge the possession notice and that their right to challenge the possession notice was extinguished. Since the applicants have relinquished their right to challenge the possession notice; the applicants were now estopped from questioning the possession notice. So, the applicant is not entitled to arise any allegations with regard to the possession notice and that the applicant is now estopped from raising allegations with regard to possession notice. The allegations with regard to the time barred issue cannot be looked into and that the authenticity of the possession notice cannot be adjudicated in the belated stage that too when the applicant waived the right to challenge.

n) The Defendant Bank begs to submit that the sale notice which was under challenge has now becomes infructuous since no sale has been conducted on the foot of the said sale notice and if the defendant bank wants to bring the property for sale, once again it has issue a fresh sale notice. On this ground alone the SARFAESI Application is liable to be dismissed.

o) The Defendant Bank begs to submit that there is no procedural irregularity on the part of the defendant bank in issuing the demand notice, taking possession, issuing possession notice, issuing sale notice & bringing the property for sale under the SARFAESI Act & Rules and that the alleged procedural irregularity mentioned in the SARFAESI Application are not factually & legally correct and that the defendant bank has issued the demand notice, possession notice & sale notice only as per the provisions and procedures of the SARFAESI Act & Rules. Hence if the sale notice is set-aside, the defendant bank will be put to untold hardships and irreparable loss & injury on the other hand no prejudice will be caused to the applicant. The balance of convenience is only in favour of the defendant bank.

p) The Defendant Bank begs to submit that the applicant is a willful & chronic defaulter. The applicant willfully, wantonly & deliberately not repaying the loan amount despite having sufficient means to repay the loan amount and that the main intention of the applicant is only to drag on the proceedings without making any payment and to defeat, delay & defraud the valuable rights of the defendant bank. So, the Hon'ble Tribunal cannot give shelters to the dishonest debtor like the applicant who is invoking the "SARFAESI Act" as a weapon against the lawful actions taken by the defendant bank that too in the last minute. The applicant is liable to pay the amount mentioned in the SARFAESI Notices with subsequent interest & costs and that it is a Public Money. The applicant who seeks equity must do equity by repaying the loan amount. So, in the interest of justice and in order to safeguard the

Public Money, the Hon'ble Tribunal has to reject the claim of the applicant.

q) The Defendant Bank begs to submit that only remedy available to the applicant is to re-pay the entire dues to the defendant bank in order to stop the sale as per section 13(8) of the SARFAESI Act.

r) The SARFAESI Application is not maintainable either in law or on facts.

s) The Defendant Bank reserves its right to file additional reply statement if necessary.

It is therefore prayed that this Hon'ble Court may be pleased to dismiss the SARFAESI Application and thus render justice.

**Typed set of papers filed by the Defendant Bank**

| S.No. | Date | Description of documents |
|---|---|---|
| 1. | 05.03.22 | Xerox copy Demand Notice with Original Return Covers |
| 2. | 05.03.22 | Demand Notice Original Paper Publication in English Daily "The Hindu" Published on 01.04.22 |
| 3. | 05.03.22 | Demand Notice Original Paper Publication in Tamil Daily "Dinathandhi" Published on 01.04.22 |
| 4. | 19.05.22 | Original Possession Notice |
| 5. | 19.05.22 | Possession Notice Original Paper Publication in English Daily "Times of India" Published on 22.05.22 |
| 6. | 22.12.23 | Original Sale Notice with xerox copy Return Covers |

**4. On the basis of the above pleadings, now the points which arise for consideration are:-**

i) Whether the Applicant is entitled to get the reliefs as prayed for?

ii) Whether the Applicant has been able to prove their case in their favour?

**5.** Having heard the parties and after going through the entire documents available on records, this Tribunal find that there is no dispute between the parties with regard to the availment of loan facilities by creating equitable mortgage over the Schedule mentioned property. It is further stated by the

applicant that he was operating his account very prompt in repaying the loan amount. But due to the restrictions in government policy the sale of the poly bags has been banned and the applicant's business came to a standstill. In the meantime, due to the spread of Covid-19 pandemic virus and the continuous lock down announced by the Central Government and State Government, the applicant incurred heavy loss in his business and hence he could not repay the loan amount properly and hence the repayment was little bit irregular. But the 1st Defendant Bank has published a sale notice bringing the applicant's property for sale. The applicant was not served with the Demand Notice, Possession Notice and impugned Sale Notice. On the other hand, the Defendant Bank has submitted that Applicant has failed to pay the balance amount hence he issued Demand Notice, Possession Notice and impugned Sale Notice after properly delivering the same to the Applicant.

**6.** I find that the Defendant Bank issued a Demand Notice dated 05.03.2022 under Section 13(2) of the SARFAESI Act to the borrower, demanding payment of a sum of **Rs.17,76,382.31/- (Rupees Seventeen Lakh Seventy Six Thousand Three Hundred and Eighty Two paise Thirty One only)** as on 28.02.2022.

**7.** The Applicant has contended that the applicant was not served with the Demand Notice, Possession Notice and impugned Sale Notice and the defendants are put to strict proof of service of all the above notices to the applicant. On the other hand, the Defendant Bank replied that the Demand Notice, Possession Notice and impugned Sale Notice were served to the borrower. The said notices were sent through registered post to the address of the borrower, and service covers were returned with postal remarks "No such person in the address". Further on the foot of the applicant's representation also once again bank has furnished copies of the demand notice, possession notice and sale notice. After that also the borrower has not informed & furnished about alleged change of address to the Bank and neither issued any reply under Section 13(3A) of SARFAESI Act nor repaid the loan.

**8.** I also perused the documents filed by the Defendant Bank. The Defendant Bank has produced copies of the Demand Notice along with the

applicant's service cover returned with postal remarks "No such addressee", which are annexed at Pages 1 to 9 of the Bank's typed set of papers.

**9.** Thereafter, the Defendant Bank issued a Possession Notice dated 19.05.2022 under Section 13(4) of the SARFAESI Act to the Applicant, demanding a sum of **Rs.17,76,382.31/- (Rupees Seventeen Lakh Seventy Six Thousand Three Hundred and Eighty Two paise Thirty One only)** as on 01.03.2022.

**10.** The Applicant has contended that the Possession Notice was not properly published in the newspapers widely circulated in that locality, as prescribed under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002. On the other hand, the Defendant Bank has submitted that the Possession Notice was duly served upon the Applicant and was also published in two leading newspapers.

**11.** In support thereof, the Defendant Bank has produced the Possession Notice and original copy of the newspaper publication only in English daily, which are annexed at Pages 10 to 12 of the Defendant Bank's typed set of papers.

**12.** Upon perusal of the records, I find that in the typed set of Papers at page No.10 to 12, the Bank has filed possession notice dated 19.05.2022 but has not filed the original Paper Publication effected in respect of Possession Notice dated 19.05.2022 in two leading newspapers published on 22.05.2022 rather he has filed only English paper publication. Further, I find that in typed set of papers, the Bank has not provided the copies of AD Cards. Moreover, the Bank has not filed any evidence for having affixed the Possession Notice on the conspicuous part of the property. Thus, I do not find that the Defendant Bank has strictly followed the SARFAESI procedures, while issuing Possession Notice to the Applicant. The Rule 8(1) (2) & (2-A) of the Security Interest (Enforcement) Rules 2002 clearly says:-

> *"8. Sale of immovable secured assets.*
>
> *(1) Where the secured asset is an immovable property, the authorized officer shall take or cause to be taken possession, by delivering a possession notice prepared as nearly as possible in Appendix IV to these rules, to the borrower and by affixing the possession notice on the outer door or at such conspicuous place of the property."*

*(2) The possession notice as referred to in sub-rule (1) shall also be published in two leading newspaper, one in vernacular language having sufficient circulation in that locality, by the authorized officer.*

*(2-A) All notices under these rules may also be served upon the borrower through electronic mode of service, in addition to the modes prescribed under sub-rule (1) and sub-rule (2) of rule 8.] "*

Hence, this issue is decided in favour of the Applicant.

**13.** Thereafter, the Defendant Bank issued a Sale Notice dated 22.12.2023 under Section 13(4) of the SARFAESI Act to the Applicant, demanding a sum of **Rs.24,38,389/- (Rupees Twenty Four Lakh Thirty Eight Thousand Three Hundred and Eighty Nine only)** as on 21.12.2023.

**14.** The Applicant has contended that the Sale Notice was not served to him. On the other hand, the Defendant Bank has submitted that the Sale Notice was sent to the Applicant's new address.

**15.** In support thereof, the Defendant Bank has produced the Sale Notice and xerox copy of return covers "No such person in the address", which are annexed at Pages 13 to 23 of the Defendant Bank's typed set of papers.

**16.** Upon perusal of the records, I find that the Defendant Bank has produced the returned service cover as proof of service of the Sale Notice upon the Applicant's new address, which has already been furnished by the applicant in his OTS letter which annexed at Page Nos.21 to 24 of S.A. Therefore, the contention of the Applicant regarding the non-service of the Sale Notice is liable to be rejected. Further, the Applicant also submitted that the Sale Notice was not affixed in the property. I perused the documents filed by the Defendant Bank and I find that the Defendant Bank has not produced the copies of Paper Publication of Sale Notice dated 22.12.2023 in two newspapers one in English and another in Tamil. Further, I find that in typed set of papers, the Bank has provided the xerox copies of returned service covers with postal remarks "No such person in the address". Moreover, the bank has not filed any proof/evidence for having affixed the Sale Notice on the impugned property. Thus, I find that the Defendant Bank has not followed the Rule 8(6) & (7) of the Security Interest (Enforcement) Rules 2002, which clearly says that,

"Rule 8(6) & (7) in the Security Interest (Enforcement) Rules, 2002:-

*"(**6**) The authorized officer shall serve to the borrower a notice of thirty days for sale of the immovable secured assets, under sub-rule (5):*

*[Provided that if the sale of such secured asset is being effected by either inviting tenders from the public or by holding public auction, the secured creditor **shall** cause a public notice in the Form given in Appendix IV-A to be published in two leading newspapers including one in vernacular language having wide circulation in the locality.]"*

*"(7) [Every notice of sale **shall be** affixed on the conspicuous part of the immovable property and the authorised officer shall upload the detailed terms and conditions of the sale, on the web- site of the secured creditor, which shall include;*

*(a) the description of the immovable property to be sold, including the details of the encumbrances known to the secured creditor;*

*(b) the secured debt for recovery of which the property is to be sold;*

*(c) reserve price of the immovable secured assets below which the property may not be sold;*

*(d) time and place of public auction or the time after which sale by any other mode shall be completed;*

*(e) deposit of earnest money as may be stipulated by the secured creditor;*

*(f) any other terms and conditions, which the authorized officer considers it necessary for a purchaser to know the nature and value of the property.]"*

Hence, this issue is also decided in favour of the Applicant.

**17.** Further, the Defendant Bank has not filed the valuation report obtained prior to issuance of the impugned sale notice dated 22.12.2023, since it is mandatory as per Rule 8(5) of the Security Interest (Enforcement) Rules, 2002, which says:-

*"(5) Before effecting sale of the immovable property referred to in sub-rule (1) of rule 9, the authorized officer shall obtain valuation of the property from an approved valuer and in consultation with the secured creditor, fix the reserve price of the property and may sell the whole or any part of such immovable secured asset by any of the methods provided therein".*

Hence, this issue is also decided in favour of the Applicant.

**18.** However, I find that during the pendency of the case, this Tribunal has granted a conditional stay order dated 29.01.2024 for a sum of Rs.12,21,000/- (Rupees Twelve Lakh Twenty One Thousand only) to be paid in three equal installments by the Applicant, the Applicant has also complied with the conditional order and proved his bona-fide.

**19.** Further, I find that the counsel for the Defendant Bank submitted that the sale notice which was under challenge has now becomes infructuous, since no sale has been conducted on the foot of the said sale notice and if the defendant bank wants to bring the property for sale, once again it will issue a fresh sale notice.

**20**. In view of the above, and considering that the sale was not conducted, **SA No.46 of 2022 is disposed of** with a direction that the Defendant Bank shall not include the expenditures incurred in issuance of the impugned Sale Notice dated 22.12.2023 in the loan account of the Applicant.

The Defendant Bank is at liberty to initiate fresh action against the Borrower/Co-borrower in accordance with the SARFAESI Act and Rules. Consequently, all pending IAs (if any) are also disposed of. No costs.

(Dictated to Assistant, taken down, transcribed, typed by him, corrected and pronounced by me in the Open Court in this the 12th October, 2026)

Sd/-
**(SEEMA SINHA)**
**PRESIDING OFFICER**

Uploaded on 21.10.2026