IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.11343 of 2026
and W.M.P.Nos.12592 of 2026

Ganekar & Co.
Rep. by its Sole Proprietor Elangovan
71, Ellaya Mudali Street,
Old Washermenpet, Chennai-21.

Petitioner

Vs

1.Reserve Bank of India
Rep. by Asst. Manager,
Consumer Education and Protection Cell,
Fort Glacis, Chennai - 600 001.

2.Reserve Bank of India
SSM Division Canara Bank
Department of Supervision
Bangalure-560001

3.The Canara Bank,
Rep. by its Manager,
Tondairpet Branch,
No.50 G A Road, Tondiarpet,
Chennai -21.

4.Elizaheth Netto
Chief Manager and the Authorized Officer,
Canara Bank, Tondiarpet Branch,
50 G. A. Road, Old Washermenpet,
Chennai - 21.

5.S. Nagarajan,
Senior Manager,
Canara Bank, Tondiarpet Branch,
Chennai – 21.

6.R.Raju
S/o.Radhakrishnan
No.83/48,Balakrishna Naidu Colony,
1st Street Kaladipet,
Thiruvottiyur, Chennai-600 019.

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the 2nd respondent in impugned order/communication dated 02.07.25 to quash the same as arbitrary, illegal and against the provisions of SARFAESI Act and the rules made thereunder, consequently direct the 1st and 2nd respondent to initiate penal action against the respondents 3 to 6 for contravention of the provisions of the SARFAESI Act and Rules with a direction to lodge a complaint to the Jurisdictional Metropolitan Magistrate.

For Petitioner: Mr.R.Chandra Sudan

For Respondents: Mr.R.Sreedhar
for R3

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

Challenging the impugned communication of the second respondent dated 2.7.2025 rejecting the representation dated 14.2.2024, the petitioner has filed the present writ petition.

2.1. The material facts leading to the filing of the writ petition are summarized thus: In 2009, the petitioner availed a cash credit facility of Rs.7 Lakh from the respondent Bank (Canara Bank, Tondairpet Branch). This credit limit was subsequently enhanced to Rs.10 Lakh with effect from June 14, 2011. Following this, a mortgage was created over the petitioner's property situated at No.71, Ellaya Mudali Street, Chennai, via a Memorandum of Deposit of Title Deeds, which was duly registered before the Sub-Registrar. Royapuram. Consequent to this security, the Bank further enhanced the credit limit from Rs.10 Lakhs to Rs.20 Lakhs on August 23, 2011. The petitioner maintains that the title deeds were deposited strictly and exclusively for the purpose of securing a housing loan. Contrary to this, the then Senior Manager of the respondent Bank, without any express authority, consent, or permission from the petitioner, unilaterally utilized the said property as collateral security for the enhanced cash credit facility. Furthermore, the official inexplicably delayed the processing and sanctioning of the petitioner's housing loan.

2.2. On June 16, 2012, the petitioner submitted the requisite audited reports and renewal papers to extend the cash credit facility. However, the Senior Manager deliberately delayed processing the renewal. Meanwhile, on May 4, 2012, the petitioner secured a housing loan approval for Rs.8.90 Lakhs from Canara Bank's Retail Asset Hub. Although the petitioner submitted all necessary documents to the Senior Manager, the Bank wrongfully refused to disburse the sanctioned housing loan. Vide a letter dated October 30, 2012, the Bank abruptly recalled the credit facility under the false pretext that the petitioner had failed to submit renewal papers. This claim stood contrary to the fact that the petitioner had already submitted the renewal documents on June 16, 2012. The petitioner contends that this arbitrary action amounted to fraud and effectively crippled their business operations. Between 2012 and 2014, the petitioner made multiple payments and consistent efforts to renew and regularize the Open Cash Credit (OCC) agreement. Defying regulatory guidelines, the Bank failed to take steps to regularize the account or facilitate business rehabilitation. Instead of entertaining rehabilitation efforts, the Bank erroneously classified the petitioner's account as a Non-Performing Asset (NPA) and initiated recovery proceedings by issuing a Demand Notice under Section 13(2) of the SARFAESI Act. Upon receiving the demand notice, the petitioner submitted formal objections. The Bank mechanically rejected these objections under Section 13(3A) of the SARFAESI Act and subsequently initiated recovery measures under Section 13(4) of the Act.

2.3. Challenging the possession notice issued under Section 13(4) of the SARFAESI Act, petitioner had filed S.A.No.57 of 2017 before the Debts Recovery Tribunal-II, Chennai and, during the pendency of the SA, the bank had issued sale notice on 26.4.2017 with a least reserve price based on the wrong valuation report by discarding the building value. By the order dated 25.10.2017, the DRT dismissed the SA and, after the dismissal of the SA, the bank had sold the property to the sixth respondent for a price little nearer to the outstanding amount. Aggrieved by the order of the DRT, the petitioner had filed RA (SA) No.129 of 2018 before the DRAT.

2.4. It is stated that the respondent bank neglected to provide the valuation report in spite of the request made by the petitioner, even prior to the issuance of sale notice. The first respondent has mechanically refused to entertain the petitioner's complaint dated 13.5.2019 and issued a communication dated 24.5.2019. Challenging the communication dated 24.5.2019, the petitioner had filed W.P.No.29824 of 2019 before this Court. By the order dated 20.11.2019, the said writ petition was disposed of with a direction to approach the DRAT. By the order dated 8.6.2023, the DRAT dismissed the RA (SA) No.129 of 2018. Challenging the order of the DRAT, the petitioner had filed W.P.No.18399 of 2023 and the same was dismissed on 17.7.2023, against which, SLP (Civil) No.18607 of 2023 was preferred and the SLP was dismissed on 15.9.2023.

2.5. Since this Court in its order passed in W.P.No.29824 of 2019 observed that the question regarding penal provisions remains open, the petitioner had submitted a comprehensive complaint to the first respondent concerning the material contraventions that constitute an offence under Section 29 of the SARFAESI Act, which has been forwarded to the second respondent for consideration. The second respondent, vide impugned communication dated 2.7.2025, rejected the representation/complaint dated 14.2.2024 stating that the grievance raised against the actions taken by the respondent bank under SARFAESI Act had already been considered and dismissed by the Tribunals and Courts and that the findings in this regard have become final. Challenging the same, the petitioner has filed the present writ petition.

3.1. Learned counsel for the petitioner submitted that before issuing the impugned communication, the petitioner was not given any opportunity and the same is in violation of principles of natural justice and that the rejection of complaint dated 14.2.2024 is against the provisions of SARFAESI Act and the Rules made thereunder. He would submit that the second respondent ought not to have summarily rejected the complaint without assigning any independent reasons and, therefore, the impugned communication/order is non-est in the eye of law.

3.2. Learned counsel for the petitioner further submitted that the complaint filed by the petitioner falls within the ambit of Section 29 of the SARFAESI Act and that the second respondent is the only competent authority to set the criminal law in motion. The second respondent cannot shut the doors at the entry point without adjudicating the complaint made under the SARFAESI Act in detail taking shelter under the order passed by the DRAT and this Court. It is the incumbent on the part of the second respondent to adjudicate the grievance made by the authority and the summary rejection is not contemplated by the legislature while inserting the provisions of Section 30A to 30D of the SARFAESI Act. The only look out of the second respondent is to see whether any violation had taken place which invites the consequences of further proceedings of lodging a complaint before the Judicial Magistrate or not. Rejecting the complaint without adjudicating the grievance of the complaint is not well within the ambit of the SARFAESI Act. Therefore, the impugned communication/order of the second respondent is liable to be set aside.

4. We have considered the submissions made by learned counsel for the petitioner and perused the materials available on record.

5. The main grievance of the petitioner is that respondents 4 and 5 in collusion with the sixth respondent snatched the property in the auction sale, that too, based on the incorrect and inaccurate valuation without even adding the value of the building and had committed fraud

and cheating, which is punishable criminal offence under Section 29 of the SARFAESI Act.

6. It is the admitted case of the petitioner that earlier the petitioner had challenged the possession notice issued under Section 13(4) of the SARFAESI Act by filing S.A.No.57 of 2017 before the DRT-II, Chennai and the DRT-II, Chennai, vide order dated 25.10.2017, dismissed the said SA. Challenging the order of the DRT-II, the petitioner had filed RA (SA) No.129 of 2018 and, by order dated 8.6.2023, the DRAT dismissed the RA (SA) No.129 of 2018. Aggrieved by the order of the DRAT, the petitioner had filed W.P.No.18399 of 2023. This Court, vide order dated 17.7.2023, dismissed the writ petition. In W.P.No.18339 of 2023, the petitioner, *inter alia*, raised various grounds. One of the grounds is that the account is not a non-performing asset. This Court, upon considering the submissions made by learned counsel for the petitioner and the bank, arrived at a conclusion that the petitioner could not establish that the account is not a non-performing asset. This Court had also observed that merely stating that the account was not a non-performing asset would not be sufficient. The fact that the cash credit limit had exceeded itself is sufficient to *prima facie* come to the conclusion that the account had

become a non-performing asset. Assailing the order dated 17.7.2023, the petitioner had filed Petition for Special Leave to Appeal (C) No.18607 of 2023 before the Supreme Court and the Supreme Court, vide order dated 15.9.2023, dismissed the said SLP. Thereafter, the petitioner had filed a review application, Rev.Aplw. SR No.116127 of 2023, with a delay. This Court, vide order dated 26.3.2024, dismissed the delay condonation application as well as the review application SR. Thus, it is clear that the action taken by the respondent bank against the secured asset under the SARFAESI Act has been duly considered by the Tribunals, High Court and Supreme Court and the decisions rendered therein had attained finality.

7. It is pertinent to point out that pending RA (SA), the petitioner had given a complaint before the Adjudicating Authority under SARFAESI Act on 13.5.2019 and the Adjudicating Authority, vide communication dated 24.5.2019, informed the petitioner that since the bank had initiated action under the SARFAESI Act, it cannot intervene in the matter and the petitioner was advised to approach any other appropriate fora for redressal of the grievance. Aggrieved by the communication dated 24.5.2019, the petitioner has filed W.P.No.29824 of 2019. By the order dated 20.11.2019, this Court disposed of the

writ petition by observing as under:

> *"5. Having heard the learned counsel, we are of the opinion that, at this stage, it would be more of academic exercise to direct the Reserve Bank of India to independently examine the complaint of the petitioner with reference to Sections 29/30 of the SARFAESI Act. All that the petitioner/borrower intends to say in such complaint, can be very well raised as grounds or objections before the Debt Recovery Appellate Tribunal against the impugned order of Debt Recovery Tribunal-II, Chennai, which is the subject matter of challenge before the DRAT.*
>
> *6. If the petitioner is aggrieved by the order of the DRAT, he can, of course, seek further legal remedy including filing a complaint/representation with a reference to Sections 29/30 of the SARFAESI Act. At that stage, the Reserve Bank of India, could examine the same in the light of the provisions independently."*

8. After the dismissal of the SLP, on 14.2.2024, the petitioner had filed another complaint under Section 29 and 30 of the SARFAESI Act before the Adjudicating Authority. On a perusal of the complaint dated 14.2.2024, it is clear that the complaint dated 14.2.2024 is almost verbatim to the complaint dated 13.5.2019 earlier filed by the petitioner under Section 29 and 30 of the SARFAESI Act. The Adjudicating Authority, upon receipt of the complaint, informed the

petitioner that the maintainability or otherwise of the petitioner's complaint under the Reserve Bank – Integrated Ombudsman Scheme, 2021 will be examined and the action taken would be communicated to him in due course. On 11.6.2024, the authority of the Reserve Bank of India, had forwarded the complaint to the Department of Supervision, Central Office for necessary action.

9. On a perusal of the impugned communication dated 2.7.2025, it is clear that the second respondent, upon narrating the proceedings initiated by the bank earlier against the secured asset and the challenge made by the petitioner, disposed of the representation dated 14.2.2024. While disposing of the representation, the second respondent has arrived at the following conclusion:

> *"5. …. Thus, the grievances raised by Shri V.Elangovan, Proprietor M/s.Ganekar & Co. against the action taken by Canara Bank under SARFAESI Act have already been considered and rejected by the Hon'ble Tribunals and Courts, as stated above and the findings in that regard have attained finality. It is noted that there is no finding in any of the aforementioned circumstance, there is no merit in seeking action by RBI under section 30 of the SARFAESI Act on the basis of the very same grounds.*
>
> *6. It is also observed that the Representation was made*

after the passing of the orders dated July 17, 2023 and September 15, 2023 by the Hon'ble High Court and Hon'ble Supreme Court respectively on the subject matter. However, no reference was made to those proceedings and their outcome, in the Representation.

7. On a careful consideration of the grounds raised in the Representation, the relevant provisions of SARFAESI Act and the orders passed by Tribunals/Courts in connection with the action of Canara Bank involved, there is no merit in the prayer made in the Representation. The Representation is disposed of accordingly."

10. It is the submission of learned counsel for the petitioner that the complaint/representation dated 14.2.2024 preferred by the petitioner falls within the ambit of Section 29 of SARFAESI Act and that the second respondent, the competent authority, has to set the criminal law in motion. It is also the submission of learned counsel for the petitioner that while passing the rejection order, the second respondent has failed to note that neither the DRAT nor the High Court addressed the issue relating to fraud and material irregularity perpetrated by respondents 4 to 6 along with the resulting penal actions, as this matter falls outside the scope of the measures enacted under Section 13(4) of the SARFAESI Act.

11. The aforementioned contention raised by the learned counsel for the petitioner is untenable. Having already failed in its challenge against the recovery measures initiated by the respondent bank up to the Supreme Court, the petitioner has filed the current complaint dated 14.02.2024. This complaint is a near-verbatim replica of the earlier complaint preferred by the petitioner on 13.05.2019. As stated supra, while disposing of W.P.No.29824 of 2019 on 20.11.2019, this Court observed that "*if the petitioner is aggrieved by the order of the DRAT, he can, of course, seek further legal remedy including filing a complaint/representation with a reference to Sections 29/30 of the SARFAESI Act. At that stage, the Reserve Bank of India, could examine the same in the light of the provisions independently.*"

12. Section 29 of the SARFAESI Act provides that if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

13. Though the petitioner has been granted liberty way back on

20.11.2019, the petitioner purposely waited for the appeal proceedings being concluded before the DRAT. No explanation is forthcoming from the petitioner as to why the petitioner has not filed the complaint immediately after passing the order dated 20.11.2019. That apart, in the order dated 20.11.2019, this Court has observed that the Reserve Bank of India, could examine the complaint in the light of the provisions independently.

14. As stated supra, the complaint dated 14.2.2024 lodged by the petitioner under Section 29/30 of the SARFAESI Act has been duly considered by the second respondent and finding that there is no merit in seeking action by the RBI under Section 30 of the SARFAESI Act on the basis of the very same grounds, which have been raised earlier by the petitioner in the writ petitions, disposed of the complaint. The proceedings initiated against the secured asset have already attained finality and now third party interest has been created over the secured asset. The alleged fraud canvassed by the petitioner between the bank officials and the auction-purchaser, as also the plea of undervaluation of the secured asset are not supported by any shred of material. We are, therefore, of the view that the impugned communication disposing of the complaint dated 14.2.2024 is perfectly in order and no

interference is warranted.

In the result, the writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(SUSHRUT ARVIND DHARMADHIKARI, CJ)   (G.ARUL MURUGAN,J)

01.07.2026

Index : Yes
Neutral Citation : Yes
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To:

1.The Asst. Manager,
Reserve Bank of India
Consumer Education and Protection Cell,
Fort Glacis, Chennai - 600 001.

2.Reserve Bank of India
SSM Division Canara Bank
Department of Supervision
Bangalure-560001

3.The Manager,
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Tondairpet Branch,
No.50 G A Road, Tondiarpet,
Chennai -21.

THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

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W.P.No.11343 of 2026

01.07.2026