IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

CRP No. 2990 of 2026 and
CMP No.12489 of 2026

City Union Bank Limited,
Represented by its Authorized Officer/
Chief Manager, N.Balaji,
S/o.S.Narayanan, No.907, Panneerselvam Park,
Erode Branch, Erode -11.

..Petitioner(s)

Vs

1. Madhan Raj HUF,
   Rep. by its Kartha Madhan Raj,
   S/o.Ramalingam, Office at D.No.2/5, Street
   No.8, C.H.B.Colony, Velur Road,
   Tiruchengode,
   Now residing at D.No.240, 4th Cross,
   Brindhavanam Main Road,
   Fairlands, Salem.

2. R.Radha alias Radha Ramalingam,
   S/o.D.M.Ramalingam,
   Managing Director,
   M/s.Ran India Steels (P) Ltd.,
   Residing at D.No.OA/13,
   Sri Raja Rajeswari Bhavan,
   7th Street, Rajiv Nagar,
   Kumaresapuram, Tiruchengode.

3. M/s. Hotel Karthik Internationals
   Rep by its Partner R.R.Balasubramanium
   No.17, Agilmedu 5th Street
   Sait Colony, Erode 1
   R3 impleaded as party respondent vide order of
   court dated 15/07/2026 made in CMP
   No.13963/2026 in CRP No.2990/2026

..Respondent(s)

Prayer: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure to set aside the fair and decretal Order dated 16.03.2026 passed in I.A.No.10 of 2026 in I.A.No.1 of 2022 in COS.No.9 of 2022 on the file of the District Judge, Commercial Court, Salem, and allow this Civil Revision Petition and thus render justice.

For Petitioner(s):	Ms. K.R.Ananda Gomathy
For Respondent(s):	Mr. Arun Anbumani for Mr.C .Ramaraj For R1
	Mr.N.Jothi, Senior Counsel for Mr.B.Natarajan for R2
	Mr.D.Selvaraju for R3

ORDER

This present civil revision petition has been filed by the bank seeking to set aside the order passed in I.A.No.10 of 2026 in I.A.No.1 of 2022 in COS No.9 of 2022.

2. The first respondent herein/plaintiff filed a commercial suit in COS No.9 of 2022 against the 2nd respondent/defendant seeking recovery of money, based on execution of promissory notes and the same was decreed on 23.02.2026. Subsequently, an order of attachment of the property of the 2nd respondent/defendant was made in I.A.No.1 of 2022 in COS No.9 of 2022 on 03.09.2022. According to the revision petitioner/bank, the 2nd respondent/ defendant had borrowed various credit facilities from their bank and since it was

not paid, the bank had taken steps under the SARFAESI Act and sold the property of the 2nd respondent/defendant in public auction. The 3rd respondent herein, as a successful bidder, had purchased the property for a sale consideration of Rs.21.45 crores, by remitting a sum of Rs.6,66,25,000/- and agreed to remit the balance sale consideration by raising loans from the petitioner bank. The petitioner bank, while processing the loan, came to know about the order of attachment and hence, filed I.A.No.10 of 2026 before the Commercial Court to raise the order of attachment. The said application was dismissed by the Commercial Court and the said order is impugned herein.

3. I have heard Ms.K.R.Ananda Gomathy, learned counsel for the petitioner, Mr.Arun Anbumani, learned counsel for the 1st respondent, Mr.N.Jothi, learned Senior Counsel for the 2nd respondent and Mr.D.Selvaraju, learned counsel for the newly impleaded 3rd respondent.

4. The learned counsel for the petitioner would firstly contend that the bank had a prior subsisting charge over the suit property and admittedly the mortgage was duly created in favour of the petitioner bank, even prior to the order of attachment passed by the commercial court in I.A.No.1 of 2022, dated 03.09.2022. The learned counsel for the petitioner, inviting my attention to the Section 26-E of the SARFAESI Act would contend that the bank has priority over all other charges and in any event, the dues of the bank were close to Rs.55

crores and the bank had rightly proceeded under the provisions of the SARFAESI Act and brought the property to sale. She therefore states that the auction purchaser has purchased the property for a sum of Rs.21,45,00,000/- (Rupees Twenty One Crore Forty Five Lakhs) and borrower himself had handed over possession as early as on 06.06.2025. She would further state that when the entire sale proceeds have not been sufficient to even satisfy the dues of the bank, the question of attachment in favour of the first respondent/plaintiff cannot survive. She would therefore state that the Commercial Court ought to have allowed the application for raising order of attachment, noticing these material facts and circumstances and prays for revision being allowed.

5. Mr.D.Selvaraju, learned counsel for the 3rd respondent/auction purchaser would contend that despite having paid a sum of Rs.6,66,25,000/- and purchased the property for a sum of Rs.21.45 crores, this respondent is unable to enjoy the suit property, encumbrance free. He would further states that the judgment debtor as well as the plaintiff in the commercial suit are attempting to thwart the lawful enjoyment of the subject property by the purchaser. He would also support the arguments of the learned counsel for the petitioner and prayed for revision petition being allowed.

6. Mr.Arun Anbumani, learned counsel for the 1st respondent/plaintiff in the commercial suit, at the out set states that the bank is now colluding with the

defendant in the commercial suit to deprive the rights, that have accrued to the first respondent. He would further states that the bank had conducted auction sale by adopting Swiss Challenge Method and admittedly, the worth of the property is much more in the open market and it has been sold for a pittance, namely, Rs.21.45 crores. He would further state that apart from the 3rd respondent, there was only one another bidder. He would therefore states that admittedly, when the revision petitioner bank was aware of the attachment in favour of the 1st respondent, which was also reflected in the encumbrance certificate and the same has also been duly acknowledged by the bank in the sale notice as well, it is his contention that all the interested stakeholders, including the 1st respondent ought to have been called and allowed to participate in the auction sale. He would also bring to my notice that proceedings also been initiated before the Debt Recovery Tribunal, challenging the sale in favour of the auction purchaser. In such circumstances, it is his submission that the executing court did not commit any error in dismissing the application filed by the bank.

7. Mr.N.Jothi, learned Senior Counsel appearing for the 2nd respondent would stoutly denied the allegations of fraud and collusion, advanced by Mr.Arun Anbumani, learned counsel for the 1st respondent. He would further deny the very entitlement of the 1st respondent to the alleged suit claim. According to the learned Senior Counsel, the first respondent has not been able

to show valid or legal source for the alleged lending in favour of the 2nd respondent itself. He would further states that the 2nd respondent has no say in the matter, since his property has already been sold in public auction at the instance of the petitioner bank and he advances his arguments only to place on record the actual facts.

8. I have carefully considered the arguments advanced on either side.

9. Admittedly, the petitioner bank has a prior charge over the property, which is the subject matter of attachment in the commercial suit. It is also an admitted position that the charge in favour of the bank was created, prior to the date of attachment of the property in the commercial suit in favour of the 1st respondent, in terms of Section 26-E of the SARFAESI Act. The bank has a priority and only there is residue available, it can be made available for attachment at the hands of the plaintiff in the commercial suit.

10. Section 26-E is extracted for ready reference.

> ***26-E. Priority to secured creditors-*** *Notwithstanding anything contained in any other law for the time being in force, after the registration of security interest, the debts due to any secured creditor shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority.*

11. From a reading of above provision, it makes it clear that the bank under the provisions of SARFAESI Act, will have a first priority/charge and

only when there is a residue, other claims can be entertained. Here, the property has been sold for a sum of Rs.21,45,00,000/- as against the dues of Rs.55 crores to the bank. In such circumstances, when the entire sale consideration has been applied towards part satisfaction of the dues of the bank, there is no residue available and in such circumstances, the question of attachment of the property in favour of the 1st respondent/plaintiff cannot subsist. It is needless to state that since the 1st respondent had already moved to the DRT for appropriate relief, it is always open to the 1st respondent to canvass and agitate all his contentions in the manner known to law, before the competent forum. The executing court, however, clearly fell in error in dismissing the application seeking raising of the attachment order, without noticing the letter and spirit of Section 26-E of the SARFAESI Act. In such circumstances, the impugned order is clearly unsustainable and liable to be dismissed.

12. Accordingly, this civil revision petition is allowed and the impugned order passed by the executing court in I.A.No.10 of 2026 in I.A.No.1 of 2022 in COS No.9 of 2022, dated 16.03.2026 is set aside. Liberty is granted to the first respondent to agitate all his claims and objections in the proceedings already been initiated byhim before the Debt Recovery Tribunal. There shall be no order as to costs. Connected miscellaneous petition is closed.

06-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
MST

To

The District Judge,
Commercial Court, Salem.

P.B.BALAJI, J.

MST

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