IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2026

CORAM :

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

W.P.No.32738 of 2026
&
W.M.P.Nos.35961 & 36189 of 2026

1. K.Baskar
Proprietor of M/s.Balaji Traders
Registered Office T.S.No.2681,
South Main Street,
Thanjavur-613 009.
Also at
Godown/ Branch Office.
No.34H, Ethiraj Plaza
Ellai Amman Koil Sannathi
Thiruvarur. dt
And also, at
D.No.370/161-D, Royal Apartment
II Floor Abraham Pandithar Road,
Thanjavur-613 008.

2. Ijasahamed
S/o Kafeel Baig,
D.No 81c Vandayar Colony Road
Baji Manzil near Vasantham
Mahal Marriage Hall,
Thanjavur-613008

3. B.Renulatha
   W/o Baskar
   2nd Floor, Abraham Pandithar Road
   Thanjavur 613 001.

4. G.Rajamani
   W/o. Govindarajalu,
   D.No.919, Varatharaja Perumal Street
   Thanjavur-613 001.

5. S.Usharani
   W/o Srinivasan,
   D.No.29/2, Nariyam Palayam,
   Near to Veeranar Koil, Water Pumping Station(opp)
   Pattukottai.

6. M/s. Thilagam Agencies,
   Rep.by Its Partner K.Baskar
   No.2681/72A, Shop.No.4,
   South Main Street,
   Thanjavur-613009. .. Petitioners

Vs.

M/s Asset Reconstruction Company (India)
Limited Rep by its Authorized Officer
Office No 560-561 G.1st Floor Century Plaza
Anna Salai Teynampet
Chennai 600018. .. Respondent

Prayer : Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records to pertaining the dismissal order dated 08.04.2026 passed in I.A.No.1150/2025 (waiver) in AIR(SA). No.1397/2025 of I.A.No.1233/2025 in SA.No.427/2025 on the file of DRAT. Chennai and quash the same and consequently, direct the Respondent to secure the fundamental rights guaranteed against demand of lone Constitutionally void.

For Petitioners : Mr.N.Balasubramanian

ORDER
(Order of the Court was made by
G.Arul Murugan,J)

The writ petition has been filed challenging the order dated 08.04.2026 passed in I.A.No.1150 of 2025 in AIR(SA) No.1397 of 2025, whereby, the Debt Recovery Appellate Tribunal had imposed a conditional order of pre-deposit for entertaining the appeal under Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. Learned counsel for petitioners contended that though a sum of Rs.40.00 lakh was debited from the account of petitioners by the bank, the same was not given effect to and therefore, the very order passed by the Debt Recovery Appellate Tribunal imposing a conditional order of pre-deposit is not justifiable and that the said order is in violation of Article 13 of the Constitution of India.

3. Learned counsel further submits that the Debt Recovery

Appellate Tribunal ought to have entertained the appeal without imposing any pre-deposit as this issue has to be adjudicated.

4. We have heard learned counsel for petitioners and perused the records.

5. It is not in dispute that first petitioner has availed financial facilities from respondent bank, to which, other petitioners are guarantors. Due to default in payment of dues, the account was classified as non performing asset and notice under Section 13(2) was issued on 12.03.2024, followed by possession notice under Section 13(4) dated 27.05.2025.

6. In view of the measures taken under the Act, the sale notice came to be issued on 06.06.2025 by bringing properties of petitioners to auction.

7. Petitioners had challenged the sale notice before the Debts Recovery Tribunal in S.A.No.427 of 2025, wherein, a conditional

order was passed. Challenging the said conditional interim order, petitioners have preferred a statutory appeal under Section 18 of the Act, along with an application seeking waiver of pre-deposit.

8. The Debt Recovery Appellate Tribunal considered the application seeking waiver of pre-deposit and passed the following order:

> *"As regards the decree of the Civil Court against the Respondent Bank, this Tribunal is of the view that Civil Court's jurisdiction is barred as per Section 13(4) of the SARFAESI Act, 2002 in SARFAESI matters. Therefore, Civil Court cannot bar the Respondent Bank from proceeding further under the SARFAESI Act, 2002.*
>
> *The claim with regard to the withdrawal of Rs.40.00 lakhs and not given credit to the loan account is to be considered in the main appeal.*
>
> *When it is enquired from the Learned Counsel for the Petitioners as to whether they want to pursue the appeal, in view of the fact that the sale scheduled on 15.7.2025 in pursuance of the sale notice dated 6.6.2025, had not taken place, the Learned Counsel for the Petitioners insisted on hearing the waiver application, and this appeal.*
>
> *Learned counsel for the Respondent Bank submits that after execution of Possession Notice, the petitioners have not*

paid any amount towards the loan account. The amount claimed as per sale notice is Rs.4,39,00,000/- and the current outstanding as on 25.2.2026 is Rs.4,39,40,612/-. The debt includes interest. The sale notice also refers to further interest.

In the circumstances, this Tribunal, after taking into consideration all the facts and that the sale is not over, directs the petitioners to make a pre-deposit of 25% of Rs.4,39,40,612/- in two equal instalments within a period of 4 weeks from today which comes to Rs.1,09,85,153/- of which, the first instalment of Rs.54,92,576/- on or before 22.4.2026 and the second instalment of Rs.54,92,576/- on or before 6.5.2026, failing which, this appeal would stand rejected.

The said pre-deposit should be paid in the form of Demand Draft in favour of the Registrar, DRAT, Chennai, payable at Chennai. In case pre-deposit is made within the stipulated period, Registrar shall invest the same in a Nationalised Bank for a reasonable period and renew it periodically, till further orders are passed.

Post the matter on 8.5.2026 for reporting compliance of deposit and for further proceedings."

9. Section 18(3) of the Act imposes a mandatory deposit of 50% of the debt due while filing an appeal under Section 18(1) of

the Act. While dealing with the mandatory deposit, the Hon'ble Supreme Court, in *Narayan Chandran Ghosh v. UCO Bank*[1], held as under:

> *"Section 18(1) of the Act confers a statutory right on a person aggrieved by any order made by the Debts Recovery Tribunal under Section 17 of the Act to prefer an appeal to the Appellate Tribunal. However, the right conferred under Section 18(1) is subject to the condition laid down in the second proviso thereto. The second proviso postulates that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less.* ***However, under the third proviso to the sub-section, the Appellate Tribunal has the power to reduce the amount, for the reasons to be recorded in writing, to not less than twenty-five per cent of the debt, referred to in the second proviso.*** *Thus, there is an absolute bar to entertainment of an appeal under Section 18 of the Act unless the condition precedent, as stipulated, is fulfilled. Unless the borrower makes, with the Appellate Tribunal, a pre-deposit of fifty per cent of the debt due from him or determined, an appeal under the said provision cannot be entertained by the Appellate Tribunal. The language of the*

[1] *(2011) 4 SCC 548*

said proviso is clear and admits of no ambiguity.

(emphasis supplied)"

Thus, the discretion is left to the Debt Recovery Appellate Tribunal to reduce the pre-deposit by waiving it to 25%.

10. The Debt Recovery Appellate Tribunal has exercised discretion and imposed the conditional pre-deposit directing petitioners to deposit a sum of 25% of the admitted dues covered under the sale notice amounting to Rs.4,39,40,612/- in two instalments.

11. It is the only contention of learned counsel for petitioners that a sum of Rs.40 lakh which was debited from the account has not been taken note of.

12. We are unable to agree with the above contention of petitioners, as, in the impugned order, the Debt Recovery Appellate Tribunal has recorded that the claim with regard to the withdrawal of Rs.40.00 lakh and not given credit to the loan account is to be

considered in the main appeal.

13. When the Debt Recovery Appellate Tribunal has recorded the same and stated that the issue of non-credit of Rs.40.00 lakh would be considered in the appeal, which is yet to be decided, the said contention lacks any merit.

14. It is also to be noted that even though petitioners have filed S.A. challenging the sale notice dated 06.06.2025, no sale fructified and in such circumstances, the very challenge to the sale notice becomes meaningless. However, it is open to petitioners to adjudicate the securitisation application and also the appeal before the Debt Recovery Appellate Tribunal, if so advised. However, on these grounds, petitioners cannot seek complete waiver which is impermissible under the Act.

15. Finding no merit, the writ petition is dismissed. There shall be no order as to costs. W.M.P.No.35961 of 2026 seeking to permit petitioners to join together and file a single writ petition is allowed

on payment of separate court fee within two weeks. Consequently, the other interim application is also dismissed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
21.08.2026

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

M/s Asset Reconstruction Company (India)
Limited Rep by its Authorized Officer
Office No 560-561 G.1st Floor Century Plaza
Anna Salai Teynampet
Chennai 600018.

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

(kpl)

W.P.No.32738 of 2026

21.08.2026