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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23-09-2026

Pronounced on : 13-11-2026

CORAM

THE HON'BLE MR.JUSTICE R.RAJESH VIVEKANANTHAN

CRP No. 3815 of 2023
and
CMP.No. 23646 of 2023
CNR: {HCMA011856192023}

Case QR

1. The Zonal Manager,
   Zonal Office, Bank of India, Star House,
   No. 30/17, Errabalu Street, Chennai – 600 001.
   Rep.by its Power of Attorney Holder,
   K.N.V.Ramarao, S/o.Paradesi Raju,
   Working as a Chief Manager at the Bank off
   India, Zonal Office, Having a Branch at No.30,
   Era Balu Chetty Street, Chennai – 600 001.

2. Deputy General Manager,
   Bank of India, Spencer Plaza-Phase-I,
   707/708, 7th Floor, 769 Anna Salai,
   Chennai – 600 002.
   Rep.by its Power of Attorney Holder
   K.N.V.Ramarao, S/o.Paradesi Raju,
   Working as a Chief Manager at the Bank of
   India, Zonal Office, Having a Branch at No.30,
   Era Balu Chetty St, Chennai – 600 001.

3. Deputy General Manager (Law)
   (Exonerated-Deleted from the Suit)

4. Assistant General Manager,
   Chennai Asset Recovery Branch, Star House,
   First Floor, No.30, Era Balu Street,
   Chennai – 600 001.
   Rep.by its Power of Attorney Holder,
   K.N.V.Ramarao, S/o.Paradesi Raju,
   Working as a Chief Manager at the Bank of
   India, Zonal Office, Having a Branch at No.30,
   Era Balu Chetty Street, Chennai – 600 001.

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5. Managing Director and CEO,
   Bank of India, Star House, C-5, G.Block,
   Bandra Kurla Complex, Bandra (East),
   Mumbari 400 051.
   Rep.by its Power of Attorney Holder,
   K.N.V.Ramarao, Paradesi Raju,
   Working as a Chief Manager at the Bank of
   India, Zonal Office, Having a Branch at No.30,
   Era Balu Chetty Street, Chennai – 600 001.

6. Bank of India,
   Rep.by its Managing Director and CEO,
   Star House, C-5, G-Block,
   Bandra Kurla Complex, Bandra (East),
   Mumbai 400051.
   Rep.by its Power of Attorney Holder,
   K.N.V.Ramarao, S/o.Paradesi Raju,
   Working as a Chief Manager at the Bank of
   India, Zonal Office,
   Having a Branch at NO. 30,
   Era Balu Chetty Street, Chennai – 600 001.

..Petitioner(s)

Vs

Mohamed Najumudeen,
S/o.Syed Ibrahim, No.118, Kenglee Road, #6-01,
Singapore 308404
and also at T.S.No.1913/15, Door No. 50,
North Main Road, Pudukottai - 622 001,
Duly rep.by his Power Agent,
Mr.Mohamed Burhan, S/o.Abdul Azeez,
No. 16/32, Venkatachalam Street,
Old Washermanpet, Chennai – 600 021.

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, seeking to set aside the order passed by the 23rd Additional City Civil Judge at Allikulam, Chennai - 600003 in IA.No. 6 of 2023 in OS.No. 3576 of 2020 dated 18.08.2023 and pass appropriate order other if deem fit and thus render justice.

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For Petitioner(s): Mr.A.Ramaswamy

For Respondent(s): Mr.M.Abdul Wafiq for M/s.Pass Associates

ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order dated 18.08.2023 passed in I.A.No.6 of 2023 in O.S.No.3576 of 2020 on the file of the learned XXIII-Additional City Civil Court, Allikulam, Chennai

2. The brief facts leading to the filing of the present Civil Revision Petition are as follows:

The respondent herein, as plaintiff, instituted the suit seeking damages and interest in respect of the amount paid by him to the petitioner Bank pursuant to an e-auction conducted under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'). The respondent participated in the e-auction conducted by the petitioner Bank and was declared the successful bidder. Pursuant thereto, he paid a sum of Rs.1,26,25,000/- to the petitioner Bank. The petitioner Bank issued a confirmation letter acknowledging the respondent as the successful bidder, confirming receipt of the amount. The Bank also instructed the respondent to deposit the balance sale consideration. Accordingly, the respondent, by his letter dated 20.03.2017, requested the Bank

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to debit the balance amount of Rs.3,78,75,000/- from his NRO/NRE account. However, despite receipt of the entire sale consideration, the petitioner Bank failed to hand over physical possession of the auction property to the respondent for various reasons. Consequently, the respondent issued a legal notice calling upon the petitioner Bank either to hand over physical possession of the property or to cancel the auction and refund the amount paid by him, together with interest. Thereafter, the petitioner Bank refunded the entire amount paid by the respondent but failed to pay the interest claimed by him. Hence, the respondent instituted the suit claiming damages and interest at the rate of 18% per annum, alleging that the failure of the petitioner Bank to hand over possession caused considerable loss and hardship to him.

3. The petitioner Bank filed an application under Order VII Rule 11(d) of the Code of Civil Procedure, seeking rejection of the plaint. The principal contention of the petitioner Bank was that the entire transaction arose out of proceedings initiated under the SARFAESI Act and, therefore, any grievance arising can be agitated only before the Debts Recovery Tribunal under Section 17(1) of the SARFAESI Act. It was further contended that the respondent, having participated in the auction proceedings conducted under the SARFAESI Act, he cannot claim interest and damages arising out of the said proceedings. It was also contended that the entire bid amount was Rs.5,05,00,000/- and,

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therefore, the Trial Court lacked pecuniary jurisdiction. The delay in handing over possession was attributable to the non-vacation of the premises by the occupants and the judicial proceedings initiated. Further, it was contended that only the fourth petitioner was concerned with the proceedings under the SARFAESI Act and that the other petitioners had been unnecessarily impleaded as parties. Hence, the suit was also liable to be rejected on the ground of misjoinder of parties.

4. The learned counsel appearing for the petitioners submitted that the respondent had participated in the e-auction conducted under the SARFAESI Act and had made the payments pursuant to the terms and conditions of the auction. The delay in handing over the possession was occasioned by the non-vacation of the property by the occupants and the judicial proceedings initiated in that regard. The entire process was undertaken in accordance with the provisions of the SARFAESI Act and the Rules framed thereunder. Therefore, the respondent's remedy, if any, would lie only before the Debts Recovery Tribunal under Section 17(1) of the SARFAESI Act. The learned counsel further submitted that the petitioner Bank had refunded the entire sale consideration and that the respondent was not entitled to claim interest or damages in respect of the delayed refund. The learned counsel also invited the attention of this Court to the proceedings initiated before the learned Chief

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Metropolitan Magistrate, Egmore, Chennai, as well as the writ proceedings before this Court, to demonstrate that the delay in handing over possession was attributable to the judicial process and not to any deliberate act or omission on the part of the Bank. It was, therefore, contended that the suit was not maintainable before the Civil Court and that the petitioners 1, 2, 3 and 5 had been unnecessarily impleaded. Hence, the learned counsel sought to set aside the order passed by the Trial Court and allow the Civil Revision Petition.

5. The learned counsel appearing for the petitioners, in support of the contention that the respondent's remedy lies before the Debts Recovery Tribunal, relied upon the judgment of the Hon'ble Supreme Court in ***Agarwal Tracom Pvt. Ltd. v. Punjab National Bank and Others*** reported in ***2007 INSC 1146,*** rendered in Civil Appeal No.19847 of 2017 dated 27.11.2017, and particularly relied upon paragraphs 18, 19, 29 and 30 of the said judgment.

6. Per contra, the learned counsel appearing for the respondent submitted that the respondent had paid the entire sale consideration as instructed by the petitioner Bank, with an expectation that physical possession of the auction property would be handed over to him. However, despite receipt of the entire sale consideration, the petitioner Bank failed to fulfil its obligation to hand over the possession of the property. The respondent was, therefore, constrained to

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issue a legal notice calling upon the petitioner Bank either to hand over the possession or to refund the entire amount paid, together with interest at the rate of 18% per annum. The said notice also made it clear that, in the event of failure on the part of the Bank to comply with the demand, the respondent would be constrained to initiate appropriate legal proceedings for recovery of damages arising out of the loss suffered by him. The learned counsel further submitted that the petitioner Bank, having refunded the entire sale consideration, could not avoid its liability to compensate the respondent for the loss occasioned by the delay. The claim for interest and damages is independent of the measures taken under the SARFAESI Act and, therefore, is not barred by Section 34 of the said Act.

7. In support of his contention, the learned counsel for the respondent / plaintiff relied upon the judgment of the Hon'ble Supreme Court in ***Leelamma Mathew v. Indian Overseas Bank and Others*****,** reported in ***2022 SCC OnLine SC 1601***. He also relied upon the order passed by this Court in C.R.P.No.3148 of 2025 dated 03.07.2026, wherein, following the aforesaid judgment of the Hon'ble Supreme Court, this Court held that a suit seeking damages or compensation outside the purview of the jurisdiction of the Debts Recovery Tribunal is maintainable before the Civil Court.

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8. Heard the learned counsel appearing for the petitioners and the respondent and perused the materials available on record.

9. There is no dispute with regard to the fact that the respondent participated in the e-auction conducted by the petitioner Bank and was declared as successful bidder. It is also not in dispute that the respondent paid the entire sale consideration of Rs.5,05,00,000/- to the petitioner Bank. The specific case of the respondent is that, despite receipt of the entire sale consideration, the petitioner Bank failed to hand over the physical possession of the auctioned property, even after the respondent issued a legal notice calling upon the Bank either to hand over the possession or to refund the amount paid together with interest.

10. The petitioners contend that, since the transaction arose from the proceedings initiated under the SARFAESI Act, the respondent's remedy would lie before the Debts Recovery Tribunal under Section 17(1) of the said Act. On the other hand, the respondent contends the his claim is one for damages and that such a claim falls outside the jurisdiction of the Debts Recovery Tribunal. The said legal position is no longer *res-integra*.

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11. The legal position with regard to the maintainability of a civil suit seeking damages or compensation in connection with proceedings under the SARFAESI Act has been considered by the Hon'ble Supreme Court in ***Leelamma Mathew v. Indian Overseas Bank and Others***, reported in ***2022 SCC OnLine SC 1601***. The relevant portion of the said judgment reads as follows:

> *"25. Now so far as the submission on behalf of the plaintiff and the finding recorded by the High Court that the suit was barred by Section 34 of the SARFAESI Act is concerned, at the outset it is required to be noted that the suit was for damages / compensation, with respect to the balance land, which could not have been decided by the DRT or Appellate Tribunal, Section 34 of the SARFAESI Act shall be applicable only in a case where the Debt Recovery Tribunal and / or Appellate Tribunal is empowered to decide the matter under the SARFAESI Act. The plaintiff was not challenging the sale / sale certificate. The plaintiff claimed the damages / compensation with respect to the less area. Therefore, the High Court has seriously erred in holding that the suit was barred by Section 34 of the SARFAESI Act."*

12. The above legal principle has also been followed by this Court in C.R.P.No.3148 of 2025 dated 03.07.2026, wherein, by relying upon the judgment of the Hon'ble Supreme Court in ***Leelamma Mathew*** referred to supra, this Court held that a civil suit claiming damages or compensation, which falls outside the jurisdiction of the Debts Recovery Tribunal, is maintainable.

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13. The learned counsel appearing for the petitioners relied upon the judgment of the Hon'ble Supreme Court in ***Agarwal Tracom Pvt. Ltd. v. Punjab National Bank and Others***, rendered in Civil Appeal No.19847 of 2017 dated 27.11.2017. The relevant portions of the said judgment, particularly paragraphs 18, 19, 29 and 30, read as follows:

> *"18. The short question that arise for consideration in this appeal is whether the High Court was justified in holding that the remedy of the appellant (auction purchaser) lies in challenging the action of the secured creditor (PNB) in forfeiting the deposit by filing an application under Section 17 of the SARFAESI Act before the DRT or the remedy of auction purchaser is in filing the writ petition under Article 226/227 of the Constitution of India to examine the legality of such action.*
>
> *19. Section 13(4) and Section 17 of the SARFAESI Act, Rules 8 and 9 of the Security Interest(Enforcement) Rules,2002(hereinafter referred to as "the Rules") to the extent they are relevant for deciding the question involved in the appeal are quoted below:*
>
> *Section 13(4)*
>
> *13. Enforcement of security interest- (1) to (3A) ……*
>
> *(4) In case the borrower fails to discharge his liability in full within the period specified in sub-section (2), the secured creditor*

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may take recourse to one or more of the following measures to recover his secured debt, namely:-

(a) take possession of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale for realizing the secured asset;

(b) take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realizing the secured asset:

Provided that the right to transfer by way of lease, assignment or sale shall be exercised only where the substantial part of the business of the borrower is held as security for the debt:

Provided further that where the management of whole, of the business or part of the business is severable, the secured creditor shall take over the management of such business of the borrower which is relatable to the security or the debt;

(c) appoint any person (hereafter referred to as the manager), to manage the secured assets the possession of which has been taken over by the secured creditor;

(d) require at any time by notice in writing, any person who has acquired any of the secured assets from the borrower and from whom any money is due or may become due to the borrower, to pay the secured creditor, so much of the money as is sufficient to pay the secured debt." Section 17 "17. Application against measures to recover secured debts-(1) Any person (including borrower), aggrieved by any of the measures referred to in sub-

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section (4) of section 13 taken by the secured creditor or his authorized 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 measures had been taken:

(2) The Debts Recovery Tribunal shall consider whether any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor for enforcement of security are in accordance with the provisions of this Act and the rules made thereunder.

(3) If, the Debts Recovery Tribunal, after examining the facts and circumstances of the case and evidence produced by the parties, comes to the conclusion that any of the measures referred to in sub-section (4) of section 13, taken by the secured creditor are not in accordance with the provisions of this Act and the rules made thereunder, and require restoration of the management or restoration of possession, of the secured assets to the borrower or other aggrieved person, it may, by order,-

(a) to (c)…… (4) If, the Debts Recovery Tribunal declares the recourse taken by a secured creditor under sub-section (4) of section 13, is in accordance with the provisions of this Act and the rules made thereunder, then, notwithstanding anything contained in any other law for the time being in force, the secured creditor shall be entitled to take recourse to one or more of the measures specified under sub-section (4) of section 13 to recover his secured debt.

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(4A)…….. *(5)*

…….. *(6)*

……..

(7) Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far as may be, dispose of application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993(51 of 1993) and the rules made thereunder.

Rule 8

8. Sale of immovable secured assets- (1) to (8) ……..

Rule 9

9. Time of sale, issue of sale certificate and delivery of possession, etc.-

(1) to (4)…… (5) In default of payment within the period mentioned in sub-rule (4), the deposit shall be forfeited to the secured creditor and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

(6) On confirmation of sale by the secured creditor and if the terms of payment have been complied with, the authorized officer exercising the power of sale shall issue a certificate of sale of the immovable property in favour of the purchaser in the form given in Appendix V to these rules." (Emphasis supplied)"

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29. We also notice that Rule 9(5) confers express power on the secured creditor to forfeit the deposit made by the auction purchaser in case the auction purchaser commits any default in paying installment of sale money to the secured creditor. Such action taken by the secured creditor is, in our opinion, a part of the measures specified in Section 13(4) and, therefore, it is regarded as a measure taken under Section 13(4) read with Rule 9(5). In our view, the measures taken under Section 13(4). commence with any of the action taken in clauses

(a) to (d) and end with measures specified in Rule 9.

30. In our view, therefore, the expression "any of the measures referred to in Section 13(4) taken by secured creditor or his authorized officer" in Section 17(1) would include all actions taken by the secured creditor under the Rules which relate to the measures specified in Section13(4)."

14. The short question that arise for consideration in the above case was whether the High Court was justified in holding that the remedy of the appellant (auction purchaser) lies in challenging the action of the secured creditor (PNB) in forfeiting the deposit by filing an application under Section 17 of the SARFAESI Act before the DRT or the remedy of auction purchaser is in filing the writ petition under Article 226/227 of the Constitution of India to examine the legality of such auction. The Hon'ble Supreme Court, after considering the relevant provisions, in paragraph 29 held that Rule 9(5) confers express power on the secured creditor to forfeit the deposit made by the auction purchaser in

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case the auction purchaser commits any default in paying installment of sale money to the secured creditor. As per Section 17(1) of the SARFAESI Act, any of the person aggrieved against the measures referred to under Section 13(4) of the SARFAESI Act, they have to challenge the said auction under Section 17(1) of the SARFAESI Act.

15. In the present case, the respondent / plaintiff made a claim for interest on delayed repayment and damages as held by the Hon'ble Supreme Court in ***Leelamma Mathew*** referred to supra and this Court in CRP.No.3148 of 2015. In view of the same, this Court is of the considered view that the claim for damages and compensation falls outside the purview of the SARFAESI Act.

16. As regards the contention of the petitioners that the delay in handing over the possession was attributable to the non-vacation of the premises by the occupants and the judicial proceedings initiated in that regard, the same involves disputed questions of fact. Whether the delay was entirely attributable to the petitioners / defendants is a matter which requires consideration on the basis of oral and documentary evidence. Similarly, the contention that the petitioners 1, 2, 3 and 5 have been unnecessarily impleaded in the suit on the ground of misjoinder of parties also requires examination with reference to the pleadings and the evidence to be adduced by the parties. Such issues cannot be

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determined in the present proceedings. Therefore, this Court finds no illegality or infirmity in the order passed by the Trial Court.

17. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes
Speaking
Neutral citation : Yes

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To

The 23rd Additional City Civil Judge,

Allikulam, Chennai – 600003.

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R.RAJESH VIVEKANANTHAN, J.

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