



C.R.P.No.5237 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2025

CORAM

THE HON'BLE MR.MANINDRA MOHAN SHRIVASTAVA,

CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

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C.M.P.No.26403 of 2025

1. M/s.Lucky Footwear Components
Rep. by its Partner, Mr.V.Asalam Basha,
Plot No.285/288, S.F.No.115 and 116,
Thuthipet Village, Ambur Taluk,
Tirupatur 635 802.

2. V.Tabraze Basha

3. V.Asalam Basha

.. Petitioners

-VS-

1. The Authorized Officer,
Indian Bank, 21/11, Oomer Road,
Ambur Taluk, Tirupattur District.

2. The Manager,
Indian Bank, 21/11, Oomer Road,
Ambur Taluk, Tirupattur District.

3. Amarnath Reddy

.. Respondents



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Prayer: Petition filed under Article 227 of the Constitution of India seeking to set aside the order dated 26.09.2025 passed in RA (SA) No.55 of 2023 on the file of Debt Recovery Appellate Tribunal, Chennai, confirming the order dated 26.05.2023 in TSA No.34 of 2023 on the file of Debts Recovery Tribunal-II, Chennai.

For Petitioners : Mr.N.Muralikumaran
Senior Counsel,
for Ms.Aishwarya Sridhar
for McGan Law Firm

For Respondents : Mr.T.Sundar Rajan
for RR 1 and 2
: Mr.S.Charuhasan &
Mr.S.Vanithalakshmi
for Mr.P.C.Harikumar & Associates
for R-3

* * * * *

ORDER

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

Heard.

2. This petition under Article 227 of the Constitution of India has



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been filed against the order dated 26.09.2025 passed by the Debt Recovery Appellate Tribunal, by which the Appellate Tribunal confirmed the order of dismissal of SA filed by the petitioners/borrowers.

3. Default on the part of the petitioners/borrowers to repay the loan resulted in initiation of proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act') against the petitioners. Notice under Section 13(2) of the SARFAESI Act was issued followed by measures taken under Section 13(4), which led to the symbolic possession taken and also sale of the secured asset through auction by the bank.

3.1. These proceedings were challenged by the petitioners by filing a Securitisation Application before the Debts Recovery Tribunal. The application of the petitioners was rejected. Aggrieved, the petitioners filed appeal before the Debt Recovery Appellate Tribunal, though unsuccessfully, giving rise to the instant petition.

4. The submissions made by learned counsel for the petitioners



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are as below:

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A) The sale notice dated 25.07.2022 was defective for the reasons that -

(i) it is in contravention of 15 clear days as provided in Rule 9 of the Security Interest (Enforcement) Rules, 2002;

(ii) the description of the property is not proper as the superstructure has not been clearly described in the sale notice; and

(iii) the valuation report, which was made basis to fix the minimum reserve price, was prepared more than one year before, which violated the guidelines under NPA Management Police 2022-23 – Version 1.0 issued by the respondent/bank.

B) The respondent also contravened the provision contained in Section 13(3A) of the SARFAESI Act in not deciding the petitioners' objection to notice under Section 13(2).

C) The petitioners' account was wrongly classified as NPA, as

(i) an amount of Rs.1,37,718/-, which was paid by the petitioners, was not taken into consideration while working out the amount in default and thereby, resulting in wrong



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classification of the petitioners' account as NPA; and

(ii) the petitioners were illegally deprived of the benefit of additional loan facility at the rate of 20% of the loan during moratorium period on account of Covid-19 as per the bank policy.

D) The petitioners have paid a huge amount of Rs.78 lakhs and are even willing to pay the balance amount as claimed by the bank in the OA filed before the Debts Recovery Tribunal.

5. Learned counsel for the respondent/bank replies to the contentions by submitting that the bank replied to the so-called objection under Section 13(3A) on 31.07.2021. His submission is that a close look of the contents of letter dated 23.06.2021 would show that it was not in the nature of any objection, but only a prayer to grant some relaxation and further extension of time was made. As there was no objection as such, there was no requirement of law to decide any objection.

5.1. He would next submit that the submissions with regard to the defect in the notice are liable to be ignored, for the reason that -



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(a) the valuation report is dated 31.07.2021 whereas the sale notice was published in the newspaper on 26.07.2022. The occasion to describe the reserve price arose while issuing the sale notice and not on the date of sale.

(b) the bank got the valuation of the property made by an approved valuer duly registered under Section 34AB of the Wealth-Tax Act, 1957, whereas the petitioners' case relies upon the valuation made by a licensed building surveyor, who is not an approved valuer and therefore, only on this ground, it cannot be said that the building was under-valued.

(c) the sale notice clearly describes the property as commercial cum industrial building with RCC roof including description and measurements of the plots, and, therefore, it cannot be said that there was no proper description.

5.2. He would next submit that various objections with regard to the petitioners' account being wrongly classified as NPA by not including Rs.1,37,718/- as paid amount were never raised before the Debts Recovery Tribunal and are being raised for the first time. The



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bank has clearly stated before the Tribunals below that additional loan facility at the rate of 20% would not be available to those who are classified as SMA-2, as they are not eligible under the guidelines. It was clearly averred that the petitioners were in the category of SMA-2 and therefore, they were not eligible. This assertion was not countered by filing any rejoinder before the Debts Recovery Tribunal and therefore, it cannot be allowed to be raised at this stage.

6. Learned counsel appearing for the auction purchaser supports the submissions made by learned counsel for the bank and submits that he has paid huge amount of Rs.67 lakhs pursuant to the auction, which was held way back on 10.08.2022 and the sale certificate has also been issued on 25.08.2022.

7. We have considered the rival submissions made by learned counsel for the parties and perused records.

8. We gave both the parties a detailed hearing taking into consideration that though after sale, the petitioners, in all, have paid Rs.78 lakhs and also offered that they are willing to pay the balance



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amount, as is claimed by the bank in the OA filed before the Tribunal for recovery of the remaining debt liability, after adjusting the sale price.

8.1. In order to explore the possibility of resolution of the dispute, before going into adjudication, we noticed and also sought response of the auction purchaser as to whether he would be satisfied if the amount paid by him to the bank is returned to him with the current rate of interest. Since the petitioners had offered to settle the entire loan account, though at a belated stage, this option was given to the auction purchaser. However, learned counsel appearing for the auction purchaser does not accept and would submit that he would be contesting the matter.

9. The auction notice, though, was dated 25.07.2022, it was published on 26.07.2022. The auction was fixed on 10.08.2022. If we exclude the date of publication of notice dated 26.07.2022, the auction was scheduled on 15th day.

9.1. Rule 9 of the Security Interest (Enforcement) Rules, 2002



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framed under the provisions of the SARFAESI Act, regulates the procedure for auction. Sub Rule (1) of Rule 9 being relevant is extracted herein below for ready reference:

9. Time of sale, Issue of sale certificate and delivery of possession, etc. - *(1) No sale of immovable property under these rules, in first instance shall take place before the expiry of thirty days from the date on which the public notice of sale is published in newspapers as referred to in the proviso to sub-rule (6) of rule 8 or notice of sale has been served to the borrower:*

Provided further that if sale of immovable property by any one of the methods specified by sub-rule (5) of rule 8 fails and sale is required to be conducted again, the authorized officer shall serve, affix and publish notice of sale of not less than fifteen days to the borrower, for any subsequent sale.

9.2. A plain reading of the aforesaid provision delineates in the first instance that no sale of immovable property shall take place before the expiry of 30 days from the date on which the public notice of sale is published in newspapers as referred to in the proviso to sub-rule (6) of rule 8 or notice of sale has been served to the borrower. The proviso thereto, however, reduces this period in the contingency



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where sale is required to be conducted again. It clearly provides that if the sale of immovable property by any one of the methods specified by sub-rule (5) of rule 8 fails and the sale is required to be conducted again, the authorized officer shall serve, affix and publish notice of sale of not less than fifteen days to the borrower, for any subsequent sale. Therefore, in case where the sale is not successful at the first instance, but is a case of subsequent sale, meaning thereby that earlier attempts made to sell the property through auction failed, in that eventuality, the period would be only 15 days. Moreover, the object of the said provision appears to be to put the borrower to notice of a minimum period of 15 days so that before auction, the borrower could repay the entire loan liability. Use of the expressions "serve, affix and public notice of sale" are clearly manifest of the intention of the rule-making authority that it is intended to give at least 15 days time to the borrower, so that the borrower could settle the loan amount before the property is actually put to sale.

9.3. In the present case, the sale notice was published in the newspapers on 26.07.2022 and the date of auction was fixed on 10.08.2022, that is, 15th day. We are unable to accept the submission



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of learned counsel for the petitioners that it should be clear 15 days. The context in which the rule-making authority has provided 15 days notice, is only intended to serve as a reasonable time to the borrower to satisfy the loan amount. Moreover, present is not a case where the petitioners/borrowers have come out with a case that it had reached the bank to deposit the entire amount on 10th August itself and even then, the bank proceeded to auction the secured asset on 10.08.2022. Therefore, the first objection must fail.

10. The second objection that the description of the property in the sale notice is not proper, is required to be rejected at the threshold because the description of the property for sale given in the sale notice is as under:

"In tirupathur district, Ambur tk, Ambur SRO, Commercial cum Industrial building with RCC Roof situated at SF No.115 & 116, Plot no.285, 286, 287 & 288 Thuthipet Village, Ambur, Thirupattur of extent 12500 sq.ft. Boundaries: North by: Plot No.284, South by: Plot No.289 of Mr.Shameel's. East by: Street. West by: canal of horse. Owner of the property: Mr.V.Asalam Basha & Mr.Tabreez Basha."



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10.1. It is abundantly clear that the description of the property has sufficient details. It clearly describes the place where the property is situated and that it is commercial cum industrial building with RCC roof situated at SF No.115 and 116 along with details of all other plots and also the measurements including the boundaries. It also describes who is the owner of the property. We fail to understand as to what more descriptive details could be given of the property which is proposed to be auctioned under the notice. Therefore, the contention in this regard is also liable to be rejected.

11. The issue with regard to the correctness of the valuation of the property need not detain us much. Present is not a case where the bank got the property valued by one who was not authorised or was not having sufficient experience as required under the law to undertake valuation of the property. It is not even a case that while valuing the property, the superstructure/building of the property has been ignored. The case of the bank that the secured asset was valued by approved valuer of the bank, who is a registered valuer under



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Section 34AB of the Wealth-Tax Act, 1957, has not been disputed by the petitioners. The case of the petitioners seems to be that according to their own valuer, the value of the property is much more. The petitioners rely upon the report of the approved surveyor, who does not appear to be an approved valuer registered under Section 34AB of the Wealth-Tax Act.

11.1. Be that as it may, while exercising jurisdiction under Article 227 of the Constitution of India, this Court, in the absence of any perversity, would not assume role of an appellate authority on facts to re-appreciate the evidence on record and arrive at its own conclusion on facts by substituting one possible view in place of the other. The view which has been taken by the Tribunal is based on admissible evidence in the form of valuation of the property made by an approved valuer. Therefore, out of the two valuation reports placed before the Tribunal, if the Tribunal has accepted the valuation made by approved valuer, registered under the provision of Wealth-Tax Act, in our considered opinion, it cannot be said to be patently illegal or perverse so as to interfere in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.



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12. One of the submissions made by the learned counsel for the petitioners is that the valuation actually done was based on the valuation report, though dated 31.07.2021, it was based on an inspection carried out on 27.03.2021 and therefore, the date on which the auction notice was issued, that is, 25.07.2022, there was significant enhancement in the property valuation and for that reason, the auction should be held illegal.

12.1. Firstly, the prescription that the valuation should be within a period of one year is part of the guidelines alone. It is not prescribed under any law. If that be so, only on the ground of technical violation of the guidelines, we would not be inclined to set aside the sale unless a clear prejudice is shown. Moreover, it is not the case that the auction was based on valuation done long back. The building was valued under the report dated 31.07.2021. Even though inspection was made on 27.03.2021, the valuation report has been prepared by the approved valuer on 31.07.2021. Therefore, the valuation, for all legal and practical purposes, is on 31.07.2021. The



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auction notice, in any case, was issued on 25.07.2022. Therefore, viewed from any angle, no irregularity or illegality is found in issuance of sale notice and holding of auction.

13. One of the objections taken by the petitioners/borrowers to the proceedings drawn by the respondent/bank, including the measures taken under Section 13(4) of the SARFAESI Act, is that its objection made to the notice under Section 13(2) was not decided. This appears to be factually incorrect. Firstly, if we look into the contents of the so-called objection dated 23.06.2021, it does not contain any objection as such, but it only prays for grant of extension of time and also for waiving of penalty and interest. It is not a case where the petitioners have challenged the quantum of liability on the ground that the total amount, which was worked out by the bank as liable to be paid by the petitioners, was incorrect or that the classification of the petitioners' account as NPA, for some reason, was not proper, correct or against the guidelines. Therefore, the contents of the letter are more in the nature of seeking some more indulgence rather than raising any substantial objection. In our view, the contents of the letter dated 23.06.2021 do not constitute "objection"



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within the meaning of the provision contained in sub-section 3A of Section 13 of the SARFAESI Act. It was, in any case, replied by the bank vide its letter dated 31.07.2021 giving details with regard to the petitioners' liability.

14. One of the submissions made by the petitioners before the Debts Recovery Tribunal was that the petitioners' account was wrongfully classified as NPA. However, there is no foundational fact given in the application, much less that an amount of Rs.1,37,718/- was illegally not included. In reply, the bank came out with a stand that as the petitioners' loan account was classified in the category of SMA-2 borrower. How the petitioners' account was wrongfully classified as NPA has not been very clearly stated.

15. The case of the petitioners is that they were entitled to additional loan facility of 20% of the loan amount on account of it being a Covid period.

15.1. Irrespective of the said claim of the petitioners, once the petitioners, who are classified as SMA-2 borrowers, the said benefit



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could not be claimed by the petitioners.

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16. In sum and substance, the challenge to classification of petitioners' account as NPA on the ground that an amount of Rs.1,37,718/- was not taken into consideration was not raised. After the bank submitted a reply by stating that the petitioners were classified as SMA-2 and therefore, not eligible, it was not refuted by filing any rejoinder affidavit before the Tribunal. Therefore, at this belated stage, in a petition under Article 227 of the Constitution of India, this issue cannot be allowed to be raised.

17. The legal position in the matter of scope of judicial review has been clearly stated by the Supreme Court in the case of ***Celir LLP vs. Mr.Sumati Prasad Bafna & Ors., 2024 Supreme (SC) 1187 ::2025 1 MLJ 193***, wherein the Supreme Court has laid down that claim of redemption after sale of the property cannot be allowed and unless prejudice is shown, technical grounds may not be made a basis to declare the sale invalid. In this regard, the pertinent observations made by the Supreme Court are reproduced as below:

"218. Any sale by auction or other public



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procurement methods once already confirmed or concluded ought not be set-aside or interfered with lightly except on grounds that go to the core of such sale process, such as either being collusive, fraudulent or vitiated by inadequate pricing or underbidding. Mere irregularity or deviation from a rule which does not have any fundamental procedural error does not take away the foundation of authority for such proceeding. In such case, courts in particular should be mindful to refrain entertaining any ground for challenging an auction which either could have been taken earlier before the sale was conducted and confirmed or whether no substantial injury has been caused on account of such irregularity.

219. In the present lis, apart from the want of statutory notice period, no other challenge has been laid to the 9th auction proceedings on the ground of it being either collusive, fraudulent or vitiated by inadequate pricing or underbidding, thus, the auction cannot be said to suffer from any fundamental procedural error, and as such does not warrant the interference of this Court, particularly when the plea sought to be raised to challenge the same could have been raised earlier.”



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In the result, we do not find any merit in this petition. Petition is, accordingly, dismissed. There shall be no order as to costs. Consequently, the interim application stands closed.

(MANINDRA MOHAN SHRIVASTAVA, CJ.) (G.ARUL MURUGAN, J.)
29.10.2025

Index : Yes
Neutral Citation : Yes

sra

To

1. The Debt Recovery Appellate Tribunal,
Chennai.
2. The Debts Recovery Tribunal-II,
Chennai.
3. The Authorized Officer,
Indian Bank, 21/11, Oomer Road,
Ambur Taluk, Tirupattur District.
4. The Manager,
Indian Bank, 21/11, Oomer Road,
Ambur Taluk, Tirupattur District.



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

(sra)

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