IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **11.03.2026**

CORAM

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**
and
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

O.S.A.No. 39 of 2026
and
C.M.P.No. 4181 of 2026

1. M.S.K.Rameshraj
S/o.Kumaraswamy

2. R.Kokila
W/o.M.S.K.Rameshraj

3. R.Srinivasan
S/o.Kumaraswamy ... Appellants

Vs.

1. The Indian Overseas Bank
Rep. by Mr.Ravi
Authorised Officer / Chief Manager
Asset Recovery Management Branch
1st Floor, Central Office Building
763, Anna Salai, Chennai - 600 002.

2. Float Glass Center,
130-477, Mint Street
Sowcarpet
Chennai-600 079.

3. Bernard Sahaya Mary
139-71, East Madha Church Street
Chennai - 600 013. ... Respondents

Original Side Appeal filed under Order XXXVI Rule 1 of The Original Side Rules read with Clause 15 of Letters Patent, to set aside the order and decree dated 21.01.2026 made in O.A.No.1101 of 2026 in C.S.No.282 of 2025 and allow the application for injunction.

For Appellants : Mr.S.R.Rajagopal
Senior Counsel for
Ms.G.Selvi George

For Respondents : Mr.P.V.Muralidhar, for R1
Mr.M.Nirmal Kumar, for R2
Mr.R.Srinivasan, for R3

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J U D G M E N T

(Judgment of the Court was delivered by **P.VELMURUGAN, J.**)

Challenging the order dated 21.01.2026 dismissing the application for injunction in Original Application No.1101 of 2026 in C.S.No.282 of 2025, the present Original Side Appeal has been filed.

2. The facts, in brief, leading to the institution of the appeal are as under:

(i) The appellants are the absolute owners of the agricultural lands described in the schedule of properties. In the year 2007, with an intention to augment the family's income, they decided to construct agricultural godowns upon the said agricultural lands for the purpose of storing agricultural goods and produce. Therefore, the appellants approached the 1st respondent / Bank seeking financial assistance and also they obtained a loan to the tune of Rs.7.35 Crores. In consideration of the said loan, the appellants executed a Memorandum of Deposit of Title Deeds in respect of the suit schedule properties in favour of the Bank. At the time of sanctioning the loan, the 1st respondent / Bank deducted a sum of Rs.2,22,98,265/-, towards interest, and consequently credited only a sum of Rs.5,12,01,735/- to the appellants' account.

(ii) The scheme known as Grameen Bhandran Yojana was formulated with the avowed object of creating scientific storage capacity with allied facilities in rural areas, so as to meet the requirements of farmers for storing their agricultural produce. Under the said scheme, the individuals are permitted to undertake projects for the construction of rural godowns, with the subsidy component being linked to institutional credit. The appellants, having been assured that subsidy would be sanctioned in their favour, were required to contribute their share towards the construction of the godowns. It is further contended that, under the

NABARD Rural Godown Scheme, the appellants are legally entitled to the grant of Government subsidy, the said subsidy being intended to promote capital investment in rural infrastructure and thereby enhance income generation in the agricultural sector. The NABARD, in accordance with the provisions of the scheme released a subsidy of Rs.18,68,500/- towards the loan account of the first appellant and Rs.20,91,500/- towards the loan account of the second appellant on 27.02.2008, aggregating to a total sum of Rs.39,60,000/-. However, it is alleged that the officials of the 1st respondent/Bank, by playing fraud and committing criminal breach of trust, fraudulently returned the entire advance subsidy amount of Rs.39,60,000/- to NABARD on 11.11.2009, without the knowledge or consent of the appellants/plaintiffs.

(iii) The appellants had duly applied for plan approval before the Panchayat, which was granted on 25.09.2008. Pursuant thereto, the appellants again approached the 1st respondent/Bank for financial assistance. The Bank being satisfied with the project proposal sanctioned a sum of Rs.110 lakhs as a term loan, for which, the appellants executed the requisite loan documents, including the creation of an equitable mortgage over the title deeds of the suit properties. It is the case of the appellants that the sanctioned amount was inadequate, and consequently, they sought additional loans to the tune of Rs.245 lakhs and Rs.125 lakhs respectively. It is further stated that, owing to unforeseen circumstances, the project suffered setbacks, inasmuch as the area was inundated during the monsoon season and the earthing work was adversely affected. The appellants assert that the progress of the project and the difficulties encountered were duly intimated to the Bank from time to time.

(iv) It is further stated that though the Bank did not sanction the loan in its entirety, they were unable to complete the construction and could only achieve about 60% progress. The appellants further contend that the officials of the 1st respondent/Bank unreasonably and maliciously rejected their legitimate request for re-schedulement of the loan. It is specifically urged that the agricultural lands in question stood exempted under the provisions of the SARFAESI Act, yet, with the ulterior motive of grabbing the suit properties, the Bank repeatedly issued notices in respect of the said agricultural lands. While the appellants were making *bona fide* efforts to resolve the matter, the Bank officials, in complete violation of law, proceeded to auction the agricultural properties. It is further stated that the properties are worth about Rs.80 crores and that there exists no legally enforceable debt, particularly after dismissal of the Bank's own case before the Debts Recovery Tribunal. It is further alleged that the Bank officials created auction transactions and forged sale documents with the intent to defeat the appellants' ownership and legitimate rights. Further, taking advantage of the order passed under Section 14 of the SARFAESI Act, the 1st respondent/Bank is attempting to take possession of the subject property through the aid of Police Officials. As against the aforesaid proceedings, the appellants approached the Debts Recovery Tribunal and also instituted certain Writ Petitions, which are stated to be pending adjudication. In the meantime, apprehending illegal dispossession, the appellants/plaintiffs, having no other efficacious remedy, instituted the suit in C.S.No.282 of 2025 seeking a declaration and permanent injunction, contending that the bar under Section 34 of the SARFAESI Act is not attracted to the case of the appellants. The appellants have also filed an application in O.A.No.1101 of 2025 seeking interim injunction. By order dated 21.01.2026, this Court dismissed the said application. Aggrieved thereby, the present appeal has been preferred by the appellants.

3. The averments in the counter affidavit filed by the 1st respondent/Bank are as follows :-

(i) The properties in question are not agricultural lands and the loan was sanctioned specifically for the establishment of rural godowns. As per the Memorandum of Deposit of Title Deeds dated 04.01.2008, it is clear that, on 22.03.2007, the Commissioner, Minjur Panchayat, had granted permission to the appellants to construct godowns in the said properties. Therefore, it is contended that the character of the property stood altered from agricultural use to commercial activity and hence, Section 31(i) of SARFAESI Act is not applicable. It is further stated that the appellants themselves have admitted that the loan was availed for construction of godowns, and hence, the plea of agricultural land does not arise. Since the construction was not completed, the subsidy could not be released. It is further averred that the appellants have failed to comply with the terms and conditions of the sanctioned loan, which resulted in the account being classified as a Non-Performing Asset (NPA). Consequently, the Bank initiated recovery proceedings under the SARFAESI Act and issued demand notices under Section 13(2) of SARFAESI Act. After completing the statutory formalities, the Bank issued the first sale notice on 12.02.2016.

(ii) It is further stated that from the year 2016 onwards, the Bank brought the property for sale on fourteen occasions; while thirteen auctions did not culminate in sale, the fourteenth auction held on 29.07.2024 was concluded, and the properties were sold to respondents 2 and 3, the successful bidders. At every stage, the appellants are alleged to have stalled the recovery proceedings by filing Writ Petitions. The Bank also filed O.A.No.457 of 2016 before the Debts Recovery Tribunal, which was dismissed for default, but an application for restoration has been filed. It is further contended that, for the past nine years, the appellants have approached the Bank for One Time Settlement (OTS), and though such settlement was sanctioned, they failed to comply with its terms. Prior to the sale of the property, the Bank obtained a valuation report, and the property was sold for Rs.10 crores after due valuation. The allegations of criminal breach of trust, according to the appellants, are wholly unfounded and incorrect. It is further stated that the appellants have to approach the Debts Recovery Tribunal and has to challenge the same in the manner known to law. It is further stated that, insofar as the property of the third respondent is concerned, the 1st respondent/Bank has already taken physical possession thereof and handed it over to the third respondent on 27.01.2026. With respect to the property of the second respondent, it is stated that the application under Section 14 of the SARFAESI Act is still pending, as the appellants' counsel sought time on the ground that the present appeal is pending. However, it is contended that the present appeal has no bearing on Section 14 proceedings, and that the appellants have sought adjournments only to protract the matter. The 1st respondent/Bank further submitted that the appellants have neither made out a *prima facie* case nor established any *bona fides* in the present appeal, which has been instituted solely with the intent to delay the recovery proceedings. It is urged that the balance of convenience lies entirely in favour of the first respondent, and this Court has rightly dismissed the application seeking interim injunction.

4. The learned Senior Counsel appearing for the appellants submitted that the appellants had availed a loan from the 1st respondent / Bank by mortgaging the agricultural lands for construction of agricultural godowns under the Grameen Bhandaran Yojana. Though the subsidy sanctioned under the scheme was credited to the loan account of the appellants, the Bank officials allegedly returned the same without the knowledge or consent of the appellants. It was further contended that the sanctioned loan was inadequate and the Bank failed to extend additional finance despite repeated requests, resulting in the project remaining incomplete due to unforeseen circumstances, including flooding during the monsoon and setbacks in earthing work. Due to non-payment of the loan amount, the account was classified as a 'Non Performing Asset' by the 1st respondent/Bank, which thereafter proceeded to bring the agricultural properties to auction though such properties are claimed to be exempted under Section 31(i) the SARFAESI Act. In the suit filed alleging fraud, the

appellants sought interim injunction, which was dismissed by the learned Single Judge by merely referring to the principles governing grant of injunction without assigning specific reasons.

5. The learned Senior Counsel for the appellants mainly contended that the suit schedule properties are agricultural lands squarely falling within the exemption contemplated under Section 31(i) of the SARFAESI Act. Therefore, the action of the 1st respondent / Bank in proceeding with the auction is contrary to law. He further contended that refusal to grant interim injunction would result in creation of irreversible third-party interests, rendering the suit itself nugatory. Though the appellants had clearly established a *prima facie* case and the balance of convenience also lies in their favour, the learned Single Judge, despite observing that the nature of the land is a triable issue, erred in declining injunction instead of preserving the subject matter of the suit. It was also contended that the bar under Section 34 of the SARFAESI Act would not apply where the action of the secured creditor is alleged to be fraudulent or without jurisdiction. The learned Judge while dismissing the application not considered the allegation relating to fraudulent reversal of the subsidy sanctioned through NABARD. It was also contended that construction of a rural godown under a Government scheme is only ancillary to agriculture and does not

alter the agricultural character of the land, and therefore, the statutory exemption would squarely apply and the impugned order, being unsustainable both in law and on facts, warrants interference by this Court.

6. The learned counsel appearing for the 1st respondent / Bank submitted that loan was sanctioned to the appellants for construction of godowns for storage of agricultural goods and produce and the appellants had undertaken to complete the construction strictly in accordance with the terms of the loan agreement. However, despite being granted sufficient time and extensions, the appellants failed to complete the project and utilize the loan amount for the purpose for which it was sanctioned. In view of such non-compliance with the terms of the agreement, the Bank was constrained to return the subsidy amount to NABARD in accordance with the applicable scheme guidelines. It was further contended that once a permanent structure was put up and used for storage purposes, the property ceased to retain its character as agricultural land and hence, the exemption under Section 31(i) of SARFAESI Act is not applicable. Since the loan account was classified as a Non Performing Asset, the 1st respondent / Bank initiated proceedings under SARFAESI Act and brought the secured assets to sale by public auction, in which, respondents 2 and 3 emerged as successful bidders. The appellants have filed the suit seeking a declaration

to declare that the auction made by the first respondent under the provisions of the SARFAESI Act, in respect of the agricultural property is null and void, non-est and invalid in eye of law and also for permanent injunction restraining the respondents from interfering with the plaintiffs' possession and enjoyment of the property. The said suit is pending for consideration. The learned Single Judge upon considering the materials placed on record, rightly declined to grant interim injunction and the order does not warrant interference.

7. We have carefully considered the rival submissions and perused the materials placed on record.

8. On a perusal of the materials placed on record and also considering the submissions made by the learned counsel on either side, this Court finds that there is no dispute with regard to the loan obtained by the appellants from the 1st respondent / Bank for construction of godowns. It is also evident that the Bank had initiated measures under Sections 13(2) and 13(4) of the SARFAESI Act and thereafter obtained an order under Section 14 of SARFAESI Act, pursuant to which the secured assets were brought to sale by public auction and respondents 2 and 3 emerged as successful bidders. It is further seen that despite being afforded sufficient

time as well as extensions and additional facilities, the appellants failed to complete the construction till the date of auction, thereby justifying the Bank's action in proceeding against the secured assets. Further, the appellants have not placed sufficient materials to establish that the suit schedule properties are agricultural lands and exempted under Section 31(i) of the SARFAESI Act, and therefore, the contention that the Bank acted without jurisdiction cannot be accepted *prima facie*. The plea of irreparable hardship and balance of convenience cannot override the statutory scheme, particularly when the account has been classified as a Non-Performing Asset and recovery proceedings have been initiated in accordance with law. The allegation regarding reversal of subsidy and the claim that construction of a rural godown does not alter the agricultural character of the land are matters which require adjudication on evidence in the pending suit. The learned Single Judge, upon considering the materials available on record, has exercised discretion in declining to grant interim injunction.

9. In view of the above, this Court does not find any perversity or illegality in the impugned order passed by the learned Single Judge. Accordingly, this Original Side Appeal is dismissed. However, the appellants are at liberty to raise all their contentions in the pending suit.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

(P.V.,J.) (K.G.T.,J.)
11.03.2026

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

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