IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-01-2026

CORAM

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

A.No.2243 of 2025
IN
A.No.1943 of 2024

Siva Industries and Holdings Limited
CIN U01134TN1994PLC026861
Rep. by Authorised Signatory Mr.Malay Kumar Tripathy
Having Registered office at
Mena Kampala Arcade, 3rd Floor
A Block, B Wing, 113-114, Sir Theyagaraya Road
T.Nagar, Chennai - 600 017, Tamil Nadu

Applicant(s)

Vs

Tata Capital Limited
(Transferee of Tata Capital Financial Services Ltd., pursuant to an approved Scheme of Arrangement by NCLT) Rep. herein by its Power of Attorney Holder
Mr.Selva Balaji Rajendran
1st Floor, Centennial Square, 6A, Dr. Ambedkar Salai
Kodambakkam, Chennai - 600 024

Respondent(s)

PRAYER

Modify the order dated 12/06/2024 passed by this Honble Court in E.P.No.46 of 2024 and A.Nos.1943 and 1944 of 2024 by permitting sale of the Kundrathur Lands, admeasuring Acre 4.88 cents situated at survey Nos.161/2B, 162/1, 162/2A, 162/2B, 163/1 and 163/2 of Kalathuvnchery Village, (presently) Kundrathur Taluk (presently) Kanchipuram District (covered under the sale deeds registered as doc.Nos.4350/1995, 4351/1995 and 4352/1995, 49/1998, 50/1998, 307/1998, 307/1998 695/1998 in the office of the Joint Sub Registrar I, Madras South and the Memorandum of Deposit of title deeds registered as doc.no.2896/2023 in the SRO, Chennai South Joint-I.

For Applicant(s): Mr.P.H.Arvind Pandian, Senior Counsel &
Mr.Sathish Parasaran, Senior Counsel
for Mr.R.Palaniandavan

For Respondent(s): Mr.Karthick Sundaram &
Mr.Ranjan Jain

ORDER

This application has been filed to modify the order dated 12.06.2024 passed by this Court in E.P.No.46 of 2024.

2.When the matter came up for hearing on 12.06.2024, the following order came to be passed:

> "The learned counsel appearing for the respondent is directed to give the details with regard to the assets and liabilities of the respondent-Company within a period of one week. Thereafter, the learned counsel appearing for the petitioner is directed to verify and give his response.
>
> 2. The respondent should not create any further encumbrance on the immovable properties and also there should not be any further loan creating any mortgage of these properties with any of the financial institutions, until further orders.
>
> 3. List the matter along with E.P.No.46 of 2024 and A.Nos.1943 and 1944 of 2024 on 11.07.2024."

3.The present modification application has been filed on the ground that a mortgage was already created in favour of State Bank of India (SBI) and the SBI proceeded further under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 and brought this property for sale and a sale certificate has also been issued by the

Authorised Officer of SBI on 31.05.2025. Therefore, virtually, nothing survives in the said order passed by this Court.

4.Learned counsel appearing for the award holder expressed his objections by stating that in the affidavit filed in support of the application, the judgment debtor has attempted to simplify the whole issue, as if SBI has already sold the property under the SARFAESI Act and whereas, this property was already shown as one of the assets which was also recorded by this Court in the order passed on 12.06.2024. Therefore, if at all, the property is brought for sale, the leave of the Court ought to have been taken and in the absence of the same, the sale itself will become nullity in the eye of law. To substantiate this submission, learned counsel relied upon the judgments of the Apex Court in *Surjit Singh and Others Vs Harbans Singh and Others* reported in *(1995) 6 SCC 50* and *Jehal Tanti and Others Vs Nageshwar Singh (dead) through LRs* reported in *(2013) 14 SCC 689.*

5.This Court carefully considered the submissions and the materials available on record.

6.The purport of the order passed on 12.06.2024 is that, no further encumbrance will be made with respect to the subject property and apart from that, no further loan will be taken by creating a mortgage of the subject property with any other financial institution. Both these restraint orders have not been violated. The property was already under mortgage with SBI and the Bank, in exercise of its right provided under the SARFAESI Act, has proceeded to bring the property for sale and has also executed the sale certificate. This did not take place by creating mortgage, after the order was passed on 12.06.2024. Even otherwise, the award holder in this case does not have a priority of right over the Bank, since the award holder is only executing an award for recovery of money and whereas, the Bank had a superior right of a mortgage debt. Therefore, neither the award holder nor the judgment debtor had any say on the action that was initiated by the SBI for bringing the property for sale under the SARFAESI Act. Therefore, such sale cannot be held to be nullity in the eye of law, as was contended by the learned counsel for award holder.

7.In the light of the above discussion, the order passed by this Court on 12.06.2024 will have no effect, after the sale had already taken place under the SARFAESI Act and the sale certificate has also been issued by the Authorised Officer of the SBI dated 31.05.2025.

This application is disposed of in the above terms.

30.01.2026

gya

N.ANAND VENKATESH, J.

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