IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-01-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

OA No. 1101 of 2025 in
C.S.No.282 of 2025

1. M.S.K. Rameshraj
   S/o.Kumaraswamy,
   188, Dr.Ambedkar Street,
   Vallur Village and Post,
   Ponneri Taluk, Thiruvallur District

2. R.Kokila
   W/o.M.S.K.Rameshraj,
   188, Dr.Ambedkar Street,
   Vallur Village and Post, Ponneri Taluk,
   Thiruvallur District

3. K.Srinivasan
   S/o.Kumaraswamy,
   188, Dr.Ambedkar Street,
   Vallur Village and Post, Ponneri Taluk,
   Thiruvallur District

..Applicant(s)

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-600002

2. Float Glass Center ,130-477, Mint Street,
   Sowcarpet, Chennai-600079

3. Bernard Sahaya Mary
139-71, East Madha Church Street
Chennai-600013

..Respondent(s)

Prayer:

Original Application filed under Order XIV Rule 8 of O.S.Rules R/w Under Order XXXIX Rules 1 and 2 CPC to grant an Ad Interim Injunction restraining the Respondents, their men, agents, servants, subordinates or anybody acting on their behalf from in any way interfering with the Plaintiffs Right, Title, interest and enjoyment and possession in the suit schedule property pending disposal of the above suit.

For Applicant(s): Mr.S.R.Rajagopal
Sr.Counsel for
Ms.Selvi George

For Respondent(s): Mr.P.V.Muralidhar for R1
Mr.R.Srinivasan for R2
Mr.M.Nirmal Kumar for R3

O R D E R

This application has been filed by the applicants to grant an Interim Injunction restraining the respondents in any way from interfering with the applicants / plaintiffs' right, title, interest, possession and enjoyment of the suit property, pending disposal of the suit.

2. The brief case of the applicants / plaintiffs are as follows:-

(i) The applicants are the plaintiffs in the main suit, which was filed for relief of declaration and for permanent injunction. The applicants are the owners of the agricultural lands mentioned in the petition, in the year 2007, with an intention of generating additional revenue for the family, they decided to construct agricultural godowns on their agricultural lands to store agricultural produces. Therefore, the applicants approached the 1st respondent / Bank for loan and also they obtained loan to the tune of Rs.7.35 Crores. For that, the applicants executed Memorandum of Deposit of Title Deeds in favour of the bank. At the time of sanctioning the loan, the 1st respondent / Bank has deducted a sum of Rs.2,22,98,265/-, as interest to the said loan and only credited a sum of Rs.5,12,01,735/-. The scheme Grameen Bhandran Yojana was formulated with the object to create scientific storage capacity with allied facilities in rural areas to meet the requirements of farmers for storing farm produce. As per the said scheme, the individuals can take up project for construction of rural godowns and subsidy is also linked to the institutional credit. The applicants were assured that they would be sanctioned with subsidy and was asked to pay their share for the construction of the godown.

(ii) Further, under the Nabard Rural Godown Scheme, the plaintiffs are legally entitled to a government subsidy aimed at promoting capital investment and enhancing income generation in the agriculture. The Nabard, in accordance with the scheme provisions released subsidy of Rs.18,68,500/-

towards the loan of the 1st applicant's account and Rs.20,91,500/- towards 2nd applicant's loan account on 27.02.2008, in total a sum of Rs.39,60,000/-. While so, the bank officials by playing fraud and committing criminal breach of trust, fraudulently returned the entire advance subsidy of Rs.39,60,000/- to Nabard on 11.11.2009 without the applicants / plaintiffs' knowledge. The applicants also applied for plan approval to the panchayat and the same was also granted on 25.09.2008. The respondent / bank officials unreasonably and maliciously rejected the applicants / plaintiffs legitimate request for loan re-schedulement. The agricultural land was exempted under the SARFAESI Act, only to grab the suit property, the bank, repeatedly issued notices for the agricultural properties. When the applicants were making sincere efforts to resolve the matter, the bank officials proceeded illegally to auction the agricultural properties in complete violation of law. The properties worth about 80 crores and there is no legally enforceable debt after dismissal of their own case before Debt Recovery Tribunal. The Bank officials also created auction transactions and forged sale documents to defeat the applicants/ plaintiffs ownership legitimate rights. Now, taking advantage of the order passed under Section 14 of the SARFAESI Act, the respondents are trying to take possession of the subject property, through Police Officials. Since there is a threat of illegal dispossession of the applicants / plaintiffs, having no other alternative, filed the suit and a bar under Section 34 under the SARFAESI Act is not applicable to this case. The applicants made out a prima facie case, balance of convenience also lies in favour of the applicants and if injunction is not granted, the applicants will put to heavy loss and irreparable damages, therefore prayed to grant interim injunction.

3. The brief facts of the counter filed by the 1st respondent / Bank are as follows:-

(i) The subject mentioned property is not an agricultural land and the loan was sanctioned for establishment of rural godown. As per Memorandum of Deposit of Title Deed dated 04.01.2008. On 22.03.2007, the Commissioner, Minjur Panchayat, granted permission to the applicants to construct a godown in the property. Therefore, the character of the agricultural property has been converted into commercial activity for construction of a godown and Section 31(i) of SARFAESI Act is not applicable. Further, the applicants themselves admitted that loan was availed for construction of godown, therefore, the question of agricultural land does not arise. Since the construction was not completed, the subsidy will not be released. The applicants have not complied with the terms and conditions of the sanctioned ticket which resulted in classifying account as 'NPA' and the bank initiated recovery proceedings under the SARFAESI Act and issued demand notice under Section 13(2) of SARFAESI Act and after completing formalities, the bank issued first sale notice on 12.02.2016, right from the year 2016, the bank has brought the property for sale on 14 times and 13 auctions were not concluded and 14th auction was concluded on 29.07.2024 and the properties were sold to the successful bidders, respondents 2 and 3. At every stage, the applicants have stalled the recovery proceedings, by way of filing Writ Petitions.

(ii) The bank also filed O.A.No.457 of 2016, though the same was dismissed for default, the Bank filed an application to restore the same. The applicants have also for the past 9 years, approached for One Time Settlement, though it was sanctioned, they have not complied with the same. Before sale of the property, bank has obtained valuation report and the property was sold for Rs.10 Crores after obtaining proper valuation report. The averments in respect of criminal breach of trust are totally incorrect. The applicants have to approach the Debt Recovery Tribunal and has to challenge the same in the manner known to law. The loan was sanctioned in the year 2002 and for the past 23 years, the banks are not in a position to recover public money. Now, only to delay the proceedings, the suit has been filed and the main suit itself is not maintainable. Therefore, there is no *prima facie* case made out and the balance of convenience is lying in favour of the 1st respondent and if the interim injunction is granted, the 1st respondent will be put to heavy loss and damages. Therefore, the application is liable to be dismissed.

4. The brief facts of the counter filed by the 2nd respondent is as follows:-

(i) The applicants availed loan from the 1st respondent, due to non payment, the said account was classified as 'Non Performing Asset', therefore, the 1st respondent initiated SARFAESI proceedings for recovery of dues. The 1st respondent issued demand notices dated 07.01.2012 and possession notices dated 11.05.2012 under Section 13(2) and 13(4) of the SARFACIE Act. Based on the advertisement dated 13.07.2024 published in the New Indian Express, the 2nd respondent, participated in the auction proceedings and he was a successful bidder for the sum of Rs.6,31,16,000/- and the sale was confirmed in his favour through confirmation letter dated 30.07.2024. The sale certificate was issued in favour of the 2nd respondent by the 1st respondent / bank on 07.08.2024 after acknowledging the payment effected by the 2nd respondent, the said sale certificate was also registered. The applicants also filed Writ petition in W.P.No.21019 of 2024 challenging the sale notice dated 09.07.2024 before this Court and thereafter, the auction purchaser was also impleaded in that Writ Petition and the same is pending. The applicants also filed application under SARFAESI Act in S.A.507 of 2024 on the file of the DRT-III, Chennai on 03.08.2024 and also they sought for interim protection in I.A.No.1409 of 2024 and the same was dismissed. Having failed in their attempt, now filed this suit with false allegations. The 2nd respondent is the bonafide auction purchaser and the present Civil Suit and the Original Application are not maintainable, as there is statutory bar under **Section 34 of the SARFAESI Act** therefore, the applicants are not entitled to any reliefs. Therefore, the Original Application is liable to be dismissed.

5. Heard the learned counsels appearing on both sides and perused the entire documents placed on record. Upon hearing both sides and perusing the entire records, the point for determination in the present Original Application is, "Whether this applicants are entitled for Interim Injunction as prayed for?"

6. In this case, the applicants, being plaintiffs, have filed the main suit for relief of declaration to declare that auction made by the 1st respondent by exercising provision of the SARFAESI Act in respect of the agricultural property, as null and void, non-est and invalid in the eye law and also for permanent injunction restraining the respondents / defendants from interfering with the applicants / plaintiffs possession and enjoyment of the property.

7. According to the applicants, it is an admitted fact that the applicants obtained loan from the 1st respondent / Bank by mortgaging the suit properties and in the suit property, they constructed a godown and due to non-payment of the loan amount, it was declared as 'Non Performing Asset' by the 1st respondent/Bank herein and thereafter, the property was brought for auction through SARFAESI proceedings. The applicants also approached the Debt Recovery Tribunal and also filed some Writ Petitions and the same are pending for adjudication. During the pendency of those proceedings, the applicants / plaintiffs have filed this suit alleging that the suit property is agricultural property and there is an exemption under Section 31(i) of SARFACIE Act, therefore, the auction of the 1st respondent / bank in initiating proceedings under SARFAESI Act and the subsequent sale in favour of the 2nd respondent are null and void.

8. Further, the learned counsel for the applicants relied on the following judgments to substantiate his contention:-

(i) Judgment of Hon'ble Supreme Court reported in (2003) 6 Supreme Court Cases 220 [Dwarka Prasad Agarwal (D) by Lrs., and Another Vs. Ramesh Chander Agarwal and Others]

(ii) Judgment of Hon'ble Supreme Court reported in (2004) 4 Supreme Court Cases 311 [Mardia Chemicals Ltd., and Others Vs. Union of India and Others]

(iii) Judgment of the Hon'ble Supreme Court reported in (2018) 18 Supreme Court Cases 252 [Indian Bank and Another Vs. K.Pappireddiyar and Another]

(iv) Judgment of the Hon'ble Supreme Court reported in (2025) 4 Supreme Court Cases 38 [Central Bank of India and Another Vs. Prabha Jain and Others]

(v) Judgment of the Hon'ble Supreme Court reported in (2018) 15 Supreme Court Cases 99 [ITC Ltd., Vs. Blue Coast Hotels Ltd.,)

(vi) Judgment of the Kerala High Court reported in 1986 SCC Online Ker 41 [Malabar Industrial Co., Ltd., Vs. John Anthraper]

(vii) Judgment of the Bombay High Court reported in 2008 SCC Online Bom 1086 [Vakrangee Softwares Limited & Ors Vs. Central Bank of India]

(viii) Judgment of the Delhi High Court reported in (2022) High Court Cass (Del) 154 [Tajunissa and Another Vs. Vishal Sharma and Others]

9. According to the respondents, the loan was obtained for construction of godown for storage of agricultural goods and produces and building was constructed after obtaining approval from Panchayat, therefore, after construction of building, it lost its character of agricultural land and it was used for commercial purpose. Since the account was declared as Non Performing Asset, the 1st respondent / Bank initiated proceedings under SARFAESI Act

and sold the property through public auction and 2nd respondent is successful bidder of the auction and sale certificate was also issued in favour of the 2nd respondent, therefore, the suit itself is not maintainable under Section 34 of the SARFAESI Act.

10.The learned counsel for the 1st respondent, in support of his contention relied on the following judgments:

(i) Judgment of the Hon'ble Supreme Court reported in CDJ 2023 SC 012 [K.Sreedhar Vs. M/s Raus Constructions Pvt., Ltd., & Others]

(ii) Judgment of the Hon'ble Division Bench of Madurai Bench of this Court in W.A.(MD) No.1442 of 2015 dated 07.01.2016 [R.Flower Vs. Indian Overseas Bank and Another]

(iii) Judgment of the Hon'ble Division Bench of this Court in W.P.Nos.31073 and 31082 of 2019 dated 22.01.2020 [Easun Holdings Pvt., Ltd., Vs. Standard Chartered Bank]

11. It is pertinent to note that there is no dispute about the loan obtained by the applicants from the 1st respondent and the 1st respondent also issued notices under Sections 13(2) and 13(4) of the SARFAESI Act and order was also passed under Section 14 of the SARFAESI Act by the concerned jurisdictional Magistrate court and thereafter, the property was sold through

public auction and the 2nd respondent is the successful bidder and already the applicants have approached this Court by way of Writ Jurisdiction and the Writ Petitions are also pending. Earlier, the applicants have also approached Debt Recovery Tribunal challenging the proceedings and the same is also pending, therefore, the question arose in this suit is, ‘whether the properties are agricultural properties or not’ and the same has to be decided in the main suit. Since various litigations are pending in respect of the same property, at this stage, this Court cannot decide the nature of the land and statutory notice has already been issued, therefore, it is not appropriate to grant any relief to the applicants at this stage and there is no prima facie case made out and the balance of convenience also not lying in favour of the applicants. If interim injunction is not granted, no prejudice will be caused to the applicants, therefore, the Original Application has no merits and deserves to be dismissed and the claim of the applicants has to be decided in the main suit.

12. Since the nature and character of the property has to be decided after full trial, the judgments relied upon by both the parties, cannot be considered at this stage and those judgments can be relied upon at the time of final adjudication of the case.

In the result, the present Original Application is dismissed. Post the main suit on 02.03.2026.

21-01-2026

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

ssd

To

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-600002

P.DHANABAL, J.

ssd

**OA No. 1101 of 2025 in
C.S.No.282 of 2025**

21-01-2026

O.A.No.1101 of 2025 in
C.S.No.282 of 2025

P.DHANABAL,J.

Today the matter is listed under the caption “for being mentioned” at the instance of the learned counsel for the respondents 2 and 3.

2. It is represented that on 21.01.2026, Mr.Nirmal Kumar, learned counsel, had entered appearance for the second respondent and Mr.Srinivansan, learned counsel had entered appearance for the third respondent. However, in the order dated 21.01.2026 in O.A.No.1101 of 2025, the name of the counsels have been mentioned interchangeably.

3. Since the above error is typographical in nature, the Registry is directed to carryout necessary corrections in respect of the interchangeable names of the counsel wherever required in the order dated 21.01.2026 and issue a fresh order copy. Except the above correction, all other portions of the order, shall remain intact.

29.01.2026

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Note: Registtry is directed to prepare the decree in O.A.No.1101 of 2025 on or before 03.02.2026 and post the main suit on 02.03.2026

P.DHANABAL,J.

Vum

O.A.No.1101 of 2025 in
C.S.No.282 of 2025

29.01.2026