IN THE DEBTS RECOVERY TRIBUNAL-2, KERALA
AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated this the 05th day of March, 2026

SECURITIZATION APPLICATION No.631/2025

Between

1. Alosyous Jacob,
   Aged 50 years, S/o. Chacko,
   Madickangel House,
   Parathanam P.O., Koottickal,
   Mundakkayam Village, Kanjirapilly Taluk,
   Kottayam District – 686 514.

2. Jismin Tom,
   W/o. Alosyous Jacob,
   Aged 45 years, Madickangel House,
   Parathanam P.O., Koottickal,
   Mundakkayam Village, Kanjirapilly Taluk,
   Kottayam District – 686 514. ...Applicants

And

1. The Indian Bank,
   Represented by its Chairman & Managing Director,
   Head Office, 254-260,
   Avvai Shanmugham Salai,
   Pudupet,
   Gopalapuram,
   Chennai, Tamil Nadu – 600 014.

2. The Authorised Officer & Chief Manager,
   The Indian Bank,
   Kottayam Branch,
   Door No.712A-GF,
   Bens Towers,
   Shastri Road,
   Kottayam – 686 001.

3. The Indian Bank, Kottayam Branch,
Represented by its Branch Manager,
Door No.712A-GF,
Bens Towers,
Shastri Road,
Kottayam – 686 001. ...Defendants

This Securitization Application having been heard on 04.02.2026 in the presence of Advocate Mr.George Mathew for the applicants and Advocate Mr.Sasidharan Nair M.N. for the defendants and stood over to this day for consideration, the Tribunal delivered the following:

F I N A L O R D E R

Challenging the securitization proceeding initiated by the defendants under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'), the applicants/Borrower and Guarantor have filed this SA under S.17(1) of the SARFAESI Act praying to set aside the entire securitization proceeding with some consequential reliefs.

Brief facts of the case:

2.1 The applicant No.1 availed Kissan Credit Card facility for agricultural activity over his property and the 2nd applicant stood as the guarantor to the said transaction. The loan is secured by creation of equitable mortgage in respect of the subject matter

property, which is claimed as agricultural in nature having with plantation of rubber trees and cultivated with different crops.

2.2 In spite of agricultural nature of the secured asset, the defendants issued a demand notice under Section 13(2) of the SARFAESI Act classifying the loan as 'NPA' calling the applicants to pay the outstanding amount. On receipt of such demand notice, the applicants have raised objection as the secured asset is agricultural land and claimed that the SARFAESI measure is not maintainable. Thereafter the defendants issued possession notice under Section 13(4) of the SARFAESI Act and the statutory provisions are not duly complied in issuing such possession notice. During pendency of the SA, the defendants initiated proceeding under Section 14 of the SARFAESI Act before the Chief Judicial Magistrate Court, Kottayam bearing MC No.661/2025. An Advocate Commissioner appointed in the said proceeding issued a notice to take possession of the secured asset which is impugned in this forum. It is claimed by the applicants that Chief Judicial Magistrate passed the impugned order on nonapplication of mind and hence it is prayed to set aside the entire securitization proceeding including the order passed by the Chief Judicial Magistrate with some consequential reliefs.

3. The defendants filed written statement denying the averments and claimed *inter alia* that there is no illegality in the proceeding under section 14 of the SARFAESI Act. The secured asset is a residential property. The Kissan Credit Card facility was availed for cultivation of cardamom over a different land of an extent of 81.50 Acres of leased land and the secured asset is a different land having a residential property, where the applicants are residing. Hence the contention that the secured asset is an agricultural land is not acceptable. All the statutory measures in issuing the possession notice are duly complied. The relevant documents are produced. There is also no illegality in the proceeding under section 14 of the SARFAESI Act. In absence of any illegality, interference with the securitization proceeding is not at all warranted. Hence the SA, being devoid of any merit, may be dismissed.

4. From the respective case of the applicants and defendants, the following points emerged for adjudication in this case:

(i) Whether the securitization proceeding initiated by the defendants suffers from any illegality or defect or irregularity to intervene with the same?

(ii) Whether the applicants are entitled to get any relief in this proceeding?

FINDINGS:

Point No.(i) & (ii):-

5. Both the points, being interlinked with each other, are taken up together for adjudication. The applicants claimed that the secured asset is an agricultural land, exempted under the provisions of the SARFAESI Act. In support of such claim, the applicants produced some tax receipts and the certificate dated 18.09.2025 issued by the Agricultural Officer. It is contended that there are rubber trees over the secured asset and hence the same is exempted under the provision of the SARFAESI Act.

6. On the other hand, the learned counsel for the defendants contended that there is a residential building over the secured asset in which the applicants reside. Hence claiming the secured asset as agricultural land is not acceptable.

7. On perusal of Annexure-A5 certificate of the Agricultural Officer, as per the land tax receipt, the applicant is a farmer, having 2 Hectare 6 Ares of cultivable land in Survey No.13/3 of Mundakayam village in Kottayam District. The same did not indicate that at the time of availing the loan the secured asset was used by the applicant as agricultural land. Rather in the description of the property in the demand notice as well as in possession notice, the same is shown having with a building.

8. The law is well settled on the point that the burden lies on the claimant to prove that the secured asset is agricultural land at the time of availing the loan and he was depending on the agricultural income derived from such land. The Hon'ble Apex Court in the judgment reported in *2023 KHC 6012* in the case of ***K.Sreedhar v. M/s.Raus Constructions Pvt. Ltd. & others*** by referring its earlier two judgments reported in *2018 (4) SCC 793* and *2018 (18) SCC 252* in the case of ***ITC Limited vs. Blue Coast Hotels Ltd. & others*** and ***Indian Bank & another vs. K.Pappireddiyar & another,*** held as follows:-

> *"7.1 The purpose of enacting Section 31(i) of the SARFAESI Act has been considered by this Court in the case of Blue Coast Hotels Ltd. (Supra) in paragraph 36, which reads as under:*
>
> > *"36. The purpose of enacting Section 31(i) and the meaning of the term "agricultural land" assume significance. This provision, like many others is intended to protect agricultural land held for agricultural purposes by agriculturists from the extraordinary provisions of this Act, which provides for enforcement of security interest without intervention of the Court. The plain intention of the provision is to exempt agricultural land from the provisions of the Act. In other words, the creditor cannot enforce any security interest created in his favour without intervention of the court or tribunal, if such security interest is in respect of agricultural land. The exemption thus protects agriculturists from losing their source of livelihood and income i.e. the agricultural land, under the drastic provision of the Act. It is also intended to deter the creation of security interest over agricultural land as defined in Section 2(1)(zf)35. Thus, security interest cannot be created in respect of property specified in Section 31."*
>
> *7.2 Thus, as per the law laid down by this Court in the aforesaid two decisions, only in a case where the secured property is actually put to use as agricultural land and solely on the basis of the revenue records / Pattadar and once the secured property is put as a security by way of mortgage etc. meaning thereby the same was not treated as agricultural land, such properties cannot be said to be exempted from the provisions of the SARFAESI Act under Section 31(i) of the SARFAESI Act. Applying the law laid down in the aforesaid two decisions to the facts of the case on hand and*

> *when no evidence was led at all on behalf of the borrowers that the secured properties in question were actually put to use as agricultural land and/or any agricultural activity was going on, the High Court has committed an error in applying Section 31(i) of the SARFAESI Act and quashing and setting aside the entire Possession Notice, Auction Notice as well as Sale etc."*

In view of this ratio, burden lies on the applicants to prove that the property was agricultural land at the time of availing the loan and the same is exempted under the provision of the SARFAESI Act. The certificate given by the Agricultural officer would not discharge the burden of the applicant in establishing the nature of land at the time of availing the loan. The applicants have failed to establish the nature of the land at the time of availing the loan. Mere existence of some rubber trees, the land cannot be treated as agricultural land exempted under SARFAESI Act in view of the ratio decided by the Hon'ble Apex Court. Hence the contention on this aspect is not acceptable.

9. The applicants have also claimed that the possession notice was not duly issued and the measure taken under Section 14 of the SARFAESI Act is not as per the statutory requirement. To counter such contention, the defendants produced paper publication showing compliance of the possession notice as well as CERSAI certificate showing registration of the security interest and all the other relevant documents. No material illegality is noticed in issuing the possession notice. Though the learned counsel for the

applicants has raised contention against the proceeding under section 14 of the SARFAESI Act, no specific illegality in such proceeding is pointed out in the SA as well as in the oral argument and the written argument filed in this case. Hence it cannot be said that the securitization proceeding initiated by the defendants is illegal to interdict with the same. In absence of proof of any illegality or irregularity in the securitization proceeding, the applicants are not entitled to get any relief. Both the points are answered against the applicants.

Hence it is ordered:-

ORDER

10. In view of the foregoing reasons, this SA, being devoid of any merit, is hereby dismissed. But in the circumstances, without costs.

(Dictated to my PA, corrected and pronounced by me in the open Tribunal on this the 05th day of March, 2026).

[SOVAN KUMAR DASH]
PRESIDING OFFICER

Documents on the part of the applicants

Annexures	Date	Particulars of documents
Annexure-A1	23.04.2025	True copy of basic tax receipt No.KL05021202453/2025 issued by the Village Officer, Mundakayam with its translation.
Annexure-A2	30.06.2025	True copy of the notice issued by the 2nd defendant under section 13(2) of the SARFAESI Act.
Annexure-A3	21.02.2025	True copy of the receipt issued by the 3rd defendant.
Annexure-A3(a)	29.05.2025	True copy of the receipt issued by the 3rd defendant.
Annexure-A3(b)	28.08.2025	True copy of the receipt issued by the 3rd defendant.
Annexure-A4	03.09.2025	True copy of possession notice issued by 2nd defendant under section 8(1) of the SARFAESI Act.
Annexure-A5	06.08.2021	True copy of certificate No.KBKTL-27/2025 issued by Agricultural Officer, Krishi Bhavan, Koottickal.
Annexure-A6	10.10.2025	Sale notice issued by 2nd respondent.
Annexure-A7	18.09.2025	True copy of petition in MC No.661 of 2025 of the Chief Judicial Magistrate Court, Kottayam.
Annexure-A8	19.09.2025	True copy of affidavit in MC No.661 of 2025 of the Chief Judicial Magistrate Court, Kottayam.
Annexure-A9	27.09.2025	True copy of the Order in MC No.661 of 2025 of the Chief Judicial Magistrate Court, Kottayam.
Annexure-A10	21.10.2025	True copy of the notice issued by Advocate commissioner.

Documents on the part of the defendants

Annexures	Date	Particulars of documents
Annexure-B1		Copy of the fair value search report of the property.
Annexure-B2	09.09.2025	Newspaper clipping of the possession notice published in the New Indian Express (English)
Annexure-B3	09.09.2025	Newspaper clipping of the possession notice published in the Mangalam daily (Malayalam).
Annexure-B4		CERSAI – search report based on security interest id based search for the secured asset.
Annexure-B5		CERSAI – Registration of security interest acknowledgment report for the secured asset.
Annexure-B6	01.07.2023	Letter confirming the deposit of title deeds with the Bank for creation of EM.
Annexure-B7	11.10.2025	Sale Notice published in 'Deepika' daily (Malayalam).
Annexure-B8	11.10.2025	Sale Notice published in 'The New Indian Express' daily (English).

PRESIDING OFFICER

IN THE DEBTS RECOVERY TRIBUNAL-2,
KERALA AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated the 05th March, 2026

SA No.631/2025

Between

Alosyous Jacob,
Aged 50 years, S/o. Chacko,
Madickangel House,
Parathanam P.O., Koottickal,
Mundakkayam Village,
Kanjirapilly Taluk,
Kottayam District,
PIN – 686 514 & Anr. ...Applicants

And

The Indian Bank,
Represented by its
Chairman & Managing Director,
Head Office, 254-260,
Avvai Shanmugham Salai,
Pudupet,
Gopalapuram,
Chennai, Tamil Nadu,
PIN–600 014 & 2 Ors. ...Defendants

F I N A L O R D E R