

**IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI**

**Dated the 6<sup>th</sup> day of March, 2026**

**PRESENT: HON'BLE MR. JUSTICE G. CHANDRASEKHARAN  
CHAIRPERSON**

**RA(SA) 19/2018  
(arising out of SA No.113/2017 on the file of DRT-II, Chennai)**

Between

CANBANK FACTORS Ltd.  
(subsidiary of Canara Bank)  
Rep. by its Authorised Officer,  
Spencer Towers Annexe,  
No.770-A, Anna Salai, Chennai-2.

.....Appellant

And

Mr. Sarath Kakumanu  
S/o Late Subbiah,  
No.29, Bishop Gardens,  
R.A. Puram, Chennai 600 028.

.....Respondent

Counsel for Appellant : Mr. S. Pandurangan  
Counsel for Respondent : M/s G. Desingu & Co.

**ORDER**

1. This appeal is filed under Section 18 of the SARFAESI Act, against the order passed by Learned Presiding Officer, DRT-II, Chennai in SA No.113/2017 on 13.11.2017.

2. The Respondent in this appeal filed the above SA challenging the measures taken under SARFAESI Act, especially seeking to set aside the sale notice dated 15.4.2017 fixing E-auction sale on 24.5.2017. The main plea taken in the said SA was that the schedule property is an agricultural property and thus exempted under Section 31(i) of SARFAESI Act, 2002. Learned Presiding Officer concurred with the plea taken by the respondent and allowed the SA. Against the order allowing the SA, this appeal is filed.
3. The Learned Counsel for the appellant submitted that the claim of the respondent that the property mortgaged with bank is an agricultural property, is not supported by any acceptable evidence. Learned Presiding Officer allowed the Securitization Application on the basis of description of property given in sale deed, sale notice and revenue documents, such as, Patta and Adangal. The Property was owned by Late Subbaiah, father of respondent. He was the founder and Managing Director of M/s Pioneer Alloys Casting Pvt. Ltd. When the aforesaid Company availed the loan facility with appellant, the deceased Subbaiah offered the schedule property as security and executed a valid mortgage. There is no indication in the sale deed that the property is an agricultural property. The revenue records will not establish the fact that the property is an agricultural property and agricultural operations were carried out at the time of creating the security interest and continued thereafter. Thus, he submitted that without producing any concrete evidence to show that the

property was used for agricultural purpose and agricultural operations were carried out at the time of creation of mortgage and continued thereafter, Learned Presiding Officer wrongly allowed the SARFAESI application. Thus submitting, learned counsel for the appellant prays for setting aside the order of Learned Presiding Officer by allowing this appeal.

4. Learned counsel for the respondent submitted that the property concerned in SA 113/2017 is an agricultural land. Learned Presiding Officer, in para-7 of the impugned order held that “as per Section 31(i) of the Act, the respondent cannot proceed against the agricultural property and there is no proper reply from the respondent. On perusal of copy of the sale deed, patta and adangal and the sale notice, it is seen that the secured asset is an agricultural property and therefore, the respondent cannot proceed against the agricultural property”. In this view of the matter, the learned Presiding Officer allowed the application.
5. It is brought to my notice by the learned counsel for the respondent that the sale deed, patta and adangal would show that the property is shown as Punja land with drains, water ways, passages, water sources. It leads to a presumption that the property is an agricultural land with all drains, passages and water sources.
6. These documents make it clear that properties are agricultural punja lands wherein coconut trees are cultivated and cultivation activities are still carried out.

These revenue records are sufficient to prove that the subject land is an agricultural land.

7. Learned Presiding Officer, after satisfied with the fact that land is an agricultural land held that the proceedings under SARFAESI Act cannot be initiated in respect of agricultural land as it is exempted under Section 31(i) of the SARFAESI Act and allowed the SARFAESI Application. Thus, he prayed for dismissal of this appeal.
8. In support of his submissions, he pressed into service the decision of Hon'ble Madras High Court in re **Akthar Hussain Vs. Pappireddiyar and others** reported in 2016 (2) LW 389 for the proposition that security interest in respect of agricultural land cannot be enforced, as it is exempted under Section 31(i) of the SARFAESI Act.
9. In reply, learned counsel for the appellant submitted that the land in question is not an agricultural land. There was no agricultural operations carried out at the time of creation of mortgage and thereafter till filing of SARFAESI application. In the reply sent to the demand notice, it is claimed by the respondent that the property in Muthukadu is in possession with some fisherman. It makes it clear that the land in question is not an agricultural land and it is not in possession of the respondent.
10. He pressed into service the decision of Hon'ble Supreme Court of India in re, **K. Sreedhar Vs. M/s Raus Constructions Pvt. Ltd. Constructions Pvt. Ltd and**

**others** in Civil Appeal No. 7402/2022 on the proposition that the classification of land in the revenue records as agricultural is not dispositive or conclusive of the question whether the [SARFAESI Act](#) does or does not apply. It must be deduced as a matter of fact from the nature of the land, the use to which it was being put on the date of the creation of the security interest and the purpose for which it was set apart. 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 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](#). The relevant portion reads as follows:

“When it was the case on behalf of the borrowers that in view of [Section 31\(i\)](#) of the [SARFAESI Act](#), the properties were agricultural lands, the same were being exempted from the provisions of the [SARFAESI Act](#), the burden was upon the borrower to prove that the secured properties were agricultural lands and actually being used as agricultural lands and/or agricultural activities were going on. Therefore, the High Court has materially erred in shifting the burden upon the secured creditor to prove that the properties are non-agricultural lands or have been put to non-agricultural use.”

11. I have considered the rival submissions and perused the records.

12. SA No.113/2017 was filed to set aside the Sale Notice dated 15.4.2017 fixing the E-Auction Sale on 25.4.2017. The main ground taken in the SARFAESI Application was that property brought for sale, i.e., one acre land situated at RS No.99/13, B2 of Muthukadu village, Chengalput District standing in the name of late Mr. K. Subbiah, father of the respondent is an agricultural land and exempted under

Section 31(i) of the SARFAESI Act. Learned Presiding Officer found “ *that the main ground taken by the respondent was that the property is an agricultural property and cannot be proceeded in view of bar under Section 31(i) of SARFAESI Act. There is no proper reply from the respondent on this point. On perusal of copy of sale deed, patta, adangal and the sale notice, he came to the conclusion that secured asset is an agricultural property and exempted under Section 31(i) of SARFAESI Act and accordingly allowed the SARFAESI Application*”.

13. Thus, it is clear that learned Presiding Officer upon finding that there was no proper reply filed by the appellant financial institution to the ground raised claiming exemption under Section 31(i) of SARFAESI Act and on the basis of copy of sale deed, patta, adangal and sale notice, he came to the conclusion that the land is an agricultural land exempted under Section 31(i) of SARFAESI Act.

14. This Tribunal, after thoroughly going through the written statement filed in the SARFAESI application found that there is not even a bald denial against the ground taken that land in question is an agricultural land. Whether a mere omission to denial of exemption claimed under Section 31(i) of SARFAESI Act would entitle the respondent for allowing the SA, is a matter that is required to be considered now. Even in the SARFAESI Application, except ground ‘c’ under grounds raised for filing the SA, stating that property brought for sale is an agricultural land and exempted under Section 31(i) of SARFAESI Act, nowhere in the body of the SARFAESI application, especially, in the facts of the case, there is

a pleading taken that the land in question is an agricultural land used for agricultural operation at the time of creation of mortgage and continued till the date of filing of the SARFAESI application. There are no details like the nature of crops cultivated, source of irrigation, returns derived from the agricultural operations. Only on the basis of description given in the sale deed, patta, adangal and sale notice, respondent claims that land is an agricultural land. In the sale deed dated 25.9.1987, the property is described as land measuring North to South 221 feet, East to West, 196 feet and admeasuring one acre within four boundaries in R.S.No.99/13, B2 at Muthukadu village, Chengalput district. In the body part, it is described as land with drains, water ways, passages, water sources, rights, privileges, easements and all appurtenances. However, the plan attached to the land does not show any water ways and the land is surrounded by third party lands on all the four sides. In the patta issued in favour of respondent's father, late K. Subbiah, land is described as punja land and as gramanatham. In the Adangal, it is described as punjar land. There is no mention about cultivation of any crops in the Adangal filed 1425 Fasli.

15. Learned Counsel for the appellant also pressed into service the decision in ITA No.451/Mds/2017 in re **Smt. D Sivagama Sundari Vs. The Income Tax Officer, Chennai** passed by Income Tax Appellate Tribunal, Chennai for the proposition that Punjar land is uncultivable land. The burden of proof that land is an agricultural land and that agricultural operations had been carried out at the time

of creation of mortgage and continued till the date of filing of SA is on the borrowers, who claim exemption under Section 31(i) of SARFAESI Act. However, this Tribunal finds from the documents produced, except mentioning that land is punja land/gramanatham, there is no iota of evidence produced to show that there is water sources available and the land is used as agricultural land from the date of creation of mortgage till the date of filing of SARFAESI application.

16. In response to Section 13(2) demand notice, respondent sent a reply to the bank on 7.2.2017. In the said reply, no plea was taken that the land is an agricultural land. On the other hand, it was stated that Muthukadu property i.e., the property in question is in possession of some fisherman and there is no entry to the property. This statement makes it clear that Muthukadu property is not in possession of the respondent and that there is no entry to the property and it is in possession of some fisherman. It strengthens the case that respondent is not using this land as an agricultural land. Punja lands mean dry land or un-irrigated land depending on rain rather than artificial irrigation. An agricultural land should be of land used for farming or agriculture such as raising fruit bearing trees, crops, plants or raising live stocks.

17. As already stated, there is no evidence produced to show that land in question was used for agricultural purpose by engaging in continuous agricultural operations, prior to creation of mortgage, at the time of creation of mortgage and subsequent to mortgage till filing of SARFAESI application. When that be the

case, allowing the SARFAESI application on the basis of sale deed and revenue records and that appellant had not filed proper reply is not correct. Respondent miserably failed to establish that land concerned is an agricultural land, used for agricultural purpose and entitled for protection under Section 31(i) of SARFAESI Act.

18. In this view of the matter, the order passed by Learned Presiding Officer, DRT-II, Chennai in SA No.113/2017 on 13.11.2017 is set aside. Consequently, SA No.113/2017 is dismissed.

19. **In the result**, Appeal RA(SA) 19/2018 is allowed. Parties are directed to bear their own costs.

20. Pending IAs, if any, stand closed.

*[Dictated to PS (SN) transcribed by him, corrected, signed and pronounced by me in open court, this 6<sup>th</sup> March, 2026]*

**Sd/-**

**(JUSTICE G. CHANDRASEKHARAN)  
CHAIRPERSON**