

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

Dated the 02<sup>nd</sup> of February, 2026

**PRESENT: Hon'ble Mr. Justice G. Chandrasekharan**  
CHAIRPERSON

**RA (SA) 122/2025**

(OA (S) No. 107/2006 On the file of DRT, Coimbatore)

Between

1. Satyam Educational Trust,  
II Floor, S.D.S. Building,  
Court Road, Nagercoil – 619 001.  
Rep. by its Chairman  
Mr. A. Thinagar.

2. Mr. A. Thinagar,  
S/o. Athisaya Raja,  
No. 35/B-5, Ashok Avenue, Sargunaveethi,  
Melaramanputhur,  
Nagercoil – 629 001.

3. T. Athisaya Raja,  
S/o. Thiruvananda Perumal Nadar,  
No. 35/B-5, Ashok Avenue, Sargunaveethi,  
Melaramanputhur,  
Nagercoil – 629 001.

4. A. Kanimozhy,  
W/o. A. Thinagar,  
No. 35/B-5, Ashok Avenue, Sargunaveethi,  
Melaramanputhur,  
Nagercoil – 629 001.

5. A. Dhanalakshmi,  
W/o. T. Athisaya Nadar,  
No. 35/B-5, Ashok Avenue, Sargunaveethi,  
Melaramanputhur,  
Nagercoil – 629 001.

6. Dr. Rathina Samy,  
S/o. Subramanian Nadar,  
No. 7/137/81 F, Tharavilai,  
Asaripallam Post,  
Nagercoil – 629 251.

*Appellants*

And

The Authorised Officer / The Chief Manager (In Charge),  
Bank of Maharashtra,  
Chennai Zonal Office,  
No. 4, Sivagnanam Road,  
T. Nagar, Chennai – 600 017.

*...Respondent*

*Counsel for Appellants* : *M/s. M. Natarajan*  
*Counsel for Respondent Bank* : *M/s. A.Karthikeyan*

## **ORDER**

1. Challenging the order passed by Learned Presiding Officer, DRT, Madurai, in SA 326/2014 on 30.04.2015, this Appeal is filed.

1.2 Appellants filed SA 326/2014 to set aside Possession Notice of the Respondent Bank dated 25.03.2014. After contest, this Application was dismissed. Thus, this Appeal.

2. Learned Counsel for Appellants submitted that the Securitisation Application was filed on the grounds that first Appellant is an Educational Trust regularly paying the loan due. There was no default happened to declare the account as Non-Performing asset (NPA). The classification of account as NPA was unwarranted and illegal. On receiving the Demand Notice, Appellants sent the Reply pointing out the mistakes in the Demand Notice, raising objection to the mistakes in the description, extent, boundaries of the

Schedule properties, non-mentioning of the date of classification of account as NPA, etc. Reply sent to the objection of the Appellants is cryptic, *per se* illegal and suffers from infirmity. The Authorised Officer should have recalled the defective Demand Notice and issued a fresh Demand Notice, if warranted, by giving correct particulars. Section 27 of the Tamil Nadu Private Colleges (Regulations) Act, 1976, prohibits the sale, exchange, lease, gift or transfer in any other manner whatsoever. Violating the said Section, steps to take possession of sale of the property, under SARFAESI Act, 2002, cannot be maintained. Appellants had not handed over title documents of the properties to the Respondent with intention to create equitable mortgage. Equitable mortgage was not created as required under law by proper stamping. Item Nos. 7 to 11 of the Schedule properties are agricultural properties. Therefore, they are exempted from proceedings under Section 31 (i) of the SARFAESI Act, 2002. Possession Notice was not affixed and no wide publication was issued in newspaper.

2.1 It is the contention of the Appellants that though Demand Notice refers about 11 properties, Possession Notice shows only 6 properties. When there was no mention about the date of classification of NPA in the Demand Notice, the impugned order refers the date of classification of account as NPA was 28.11.2013, without any basis. Payment of Rs.1,19,20,544/- after receiving Demand Notice was not considered. It is submitted further that despite production of evidence in support of the case of the Appellants, Learned Presiding Officer has not considered them in proper perspective, and dismissed the Securitisation Application. Thus, he prayed for setting aside the order passed by Learned Presiding Officer and for allowing of this Appeal.

3. In reply to his submissions, Learned Counsel for Respondent Bank submitted that Appellants had created mortgage in respect of the property. Valid loan documents and MODT documents had been executed by Appellants. Despite giving opportunity to pay the loan due by restructuring the loan, Appellants were so irregular in

payment of loan amount. When default continued, the Bank had classified the loan account as NPA. Mere omission to mention the date of NPA in the Demand Notice, would not result in setting aside the SARFAESI proceedings. The discrepancies in the description of the property like survey number, extent, boundaries, had been properly replied and corrected in the Possession Notice. Possession Notice was personally served on the Appellants, published and affixed on secured asset. The claim that item Nos. 7 to 11 are agricultural properties, was not proved by Appellants, and therefore, this claim was rightly rejected. Without paying the loan amount, Appellants filed Securitisation Application only to protract the proceedings and delay the recovery process. So saying, he prayed to confirm the order of Learned Presiding Officer and dismiss this Appeal.

4. Considered the rival submissions and perused the records.

5. The Demand Notice dated 18.12.2013 was issued to all the Appellants. This Demand Notice shows that Appellants availed six loan facilities and on classifying the account as NPA, the following sums had been demanded as due with subsequent interest from 18.12.2015 :-

| <i>Sr. No.</i> | <i>Nature &amp; Amt of credit facility (account no.)</i> | <i>Security</i> | <i>Present outstanding (as on 17/12/2013)</i>  |
|----------------|--|-----------------|--|
| 1              | TL – 60070201811<br>Rs. 600.00 lakhs                     | DETAILS         | Rs. 4,95,28,242.88<br>(rupees Four crores ninety five lacs twenty eight thousand two hundred forty two and paisa eighty eight only) Plus interest from 18/12/2013 plus other charges |
| 2              | TL – 60059521393<br>Rs. 48.50 lacs                       | GIVEN in        | Rs. 29,76,341.12<br>(rupees twenty nine lacs seventy six thousand three hundred and forty one and paisa twelve only) Plus interest from 18/12/2013 plus other charges                |
| 3              | TL – 20167153606<br>Rs. 22.50 Lakhs                      | below           | Rs.2,67,333.92<br>(rupees two lakhs sixty seven thousand three hundred thirty three and paisa ninety two only) Plus  |

|   |  |  |   |
|---|--|--|---|
|   |  |  | <i>interest from 18/12/2013 plus other charges</i>  |
| 4 | <i>TL – 20167153617<br/>Rs. 15.00 Lakhs</i>  |  | <i>s. 54,233.76 (Fifty Four thousand two hundred thirty three and paise Seventy Six only) Plus interest from 18/12/2013 plus other charges</i>                            |
| 5 | <i>TL – 20167155886<br/>Rs. 100.00 Lakhs</i> |  | <i>Rs. 29,41,335.82 (Rupees twenty nine lacs forty one thousand three hundred thirty five and paise eighty two only) Plus interest from 18/12/2013 plus other charges</i> |
| 6 | <i>TL – 60037129027<br/>Rs. 160.00 Lakhs</i> |  | <i>Rs. 81,14,820.12 (Rupees Eighty one lacs fourteen thousand eight hundred twenty and paise twelve only) Plus interest from 18/12/2013 plus other charges</i>            |

6. True it is that though it is claimed that the account was classified as NPA in accordance with the prescribed norms issued by RBI, there is no mention about the date of classification of account as NPA. Whether omission to

mention the date of classification of account as NPA in the Demand Notice is a fatal to the SARFAESI proceedings?

7. The Demand Notice refers about 11 items of the properties. The Demand Notice was objected by Appellants by sending Reply dated 20.02.2014 to Demand Notice. In the reply, the availing of loan facilities and re-scheduling of loan repayment on 24.12.2012 was accepted. It was also stated that first Appellant is not business entrepreneurship and that only a charitable Educational Institution. Whenever it raised money from its restricted sources, the loan amount was deposited promptly at periodical intervals, but the time gap for payments was regarded as grave sin and the Banker began to trouble the Appellant unnecessarily. This statement indicates that there was non-compliance of payment as per the time schedule. The issues with regard to discrepancies in the extent, boundaries, certificate number was also taken up in this objection. This objection was replied by the Bank on 27.02.2014. It is stated in the reply that the Appellants had

not approached the Bank in connection with payments, and therefore, the Bank had adjusted the payments made towards the penal interest and service charge etc., in consonance with agreement, Appellants were defaulters, Section 13(2) Demand Notice is not an encyclopedia and there is no need to mention the date of classification of account as NPA. Finally, it is stated that the discrepancies in the description were corrected and Possession Notice was issued.

8. Respondent produced the copies of the following documents:-

- i) Memorandum of Deposit of Title Deeds executed by first Appellant on 29.12.2008,
- ii) Supplementary Memorandum of Deposit of Title Deeds executed by first Appellant on 28.04.2011,

- iii) Memorandum of Deposit of Title Deeds executed by second Appellant on 03.01.2008,
- iv) Supplementary Memorandum of Deposit of Title Deeds executed by second Appellant on 28.04.2011 and
- v) Supplementary Memorandum of Deposit of Title Deeds executed by first Appellant on 31.05.2011.

These Memorandum of Deposit of Deposit of Title Deeds and Supplementary Memorandum of Deposit of Title Deeds show that the equitable mortgage by Deposit of Title Deeds was created in respect of Item Nos. 1 to 6 of the properties mentioned in the Demand Notice.

9. Respondent Bank filed IA 39/2026 to receive additional documents to show that all the 11 properties are mortgaged

properties by creating security interest over them and by execution of necessary mortgage documents. The Appellants have filed only part of the Possession Notice showing only item Nos. 1 to 6 of the properties. On the other hand, copy of Possession Notice produced by Respondent Bank shows that the Bank had issued Possession Notice in respect of item Nos. 1 to 11 of the properties on which security interest was created by executing mortgage by deposit of title deeds.

9.1 The additional documents filed to show the creation of mortgage in respect of item Nos. 7 to 11 are absolutely necessary for resolving the issue involved in this case. In this view of the matter, IA 39/2026 is allowed. The additional documents are received as evidence.

10. The additional documents filed are as follows:-

i) Copy of the mortgagor's letter of confirmation of equitable mortgage executed by 6<sup>th</sup> Appellant Dr. S. Rathinasamy on 26.03.2009. This letter shows that 6<sup>th</sup>

Appellant had deposited seven documents in respect of the properties in Survey No.209/4 A2, 205/2, 206/1, 605/10, 229/9 in Neenda Karai Village, Agasteswaram, Kanyakumari District.

ii) Another letter evidencing confirmation of equitable mortgage dated 11.01.2010 given by 6<sup>th</sup> Appellant is also produced. He had deposited the documents for creation of mortgage by deposit of title deeds in respect of the same properties.

iii) A letter dated 'nil' executed by 6<sup>th</sup> Appellant is also produced to show that he visited the Respondent Bank and acknowledged the handing over of the title documents for creation of mortgage by deposit of title deeds in respect of this term loans availed

From these documents, it is made clear that the Appellants had created mortgage in respect of all the 11 properties for

which Section 13(2) Demand Notice was issued, followed by issuance of Possession Notice.

11, Securitisation Application was filed challenging Possession Notice dated 25.03.2014. Admittedly, this Possession Notice was issued for all the 11 mortgaged properties. Therefore, Learned Presiding Officer dealt with the validity of Possession Notice in respect of all the 11 properties and found that there is no illegality or infirmity in the Possession Notice issued.

12. So far as the contention raised with regard to item Nos. 7 to 11 that they are the agricultural properties, Learned Presiding Officer rejected this claim on the ground that the Appellants have not produced any independent proof to show that the agricultural operations had been carried out. Mere categorization of lands as agricultural lands would not be *suffice* to hold that lands are agricultural lands.

12.1 It is settled proposition of law that if an exemption under Section 31(i) of the SARFAESI Act, 2002 is claimed, the party claiming, must establish that the lands are agricultural lands and agricultural operations were carried out at the time of creation of mortgage and continuously carried out till filing of the Securitisation Application. This evidence is not available in this case. Therefore, the claim of the Appellants that item Nos. 7 to 11 are agricultural properties, and hence, exempt from SARFAESI proceedings under Section 31(i) of the SARFAESI Act, 2002, was rejected by the Tribunal, and rightly so.

13. The perusal of records made available shows that Appellants have not paid the outstanding amount due to the Bank regularly, especially, even after the account was re-scheduled. Learned Presiding Officer extensively discussed the payments made in paragraph 11 (b) on the basis of accounts statement made available. Appellants have not disputed this finding by producing convincing evidence. Therefore, it is clear that there was no regular payment and

on non-payment of amount after the re-schedulement, the account was classified as NPA. It was also observed by Learned Presiding Officer that in the statement of account, it was noted in handwriting that the account was classified as NPA on 28.11.2013. If the account was not serviced for continuously for 90 days, the legal consequence is to classify the account as NPA. That had happened in this case. The default for more than 90 days and the legal consequence of classification of account as NPA are very well established by Respondent Bank.

14. Mere omission to mention the date of classification of account as NPA in the Demand Notice, is only a technical error by oversight. For this technical error, SARFAESI measures cannot be undone.

15. So far as the other grounds are concerned, mis-description, wrong description of property etc, these mistakes had been corrected in subsequent Possession Notice. Appellants have not shown any prejudice on

account of not mentioning the date of classification of account as NPA and mis-description/wrong description of the property in Section 13(2) Demand Notice.

16. IA 1514 /2025 is filed to receive additional documents to show the publication of Possession Notice and affixture of Possession Notice on the secured asset. These documents are essential for the parties to decide the Appeal, and therefore, IA 1514 /2025 is allowed. These documents are received as evidence as additional documents. The photographs of affixture of Possession Notice and paper publication dated 25.03.2014 clearly prove the service of Possession Notice, publication and affixture.

17. There are no other valid grounds made out to interfere with the order passed by Learned Presiding Officer, DRT, Madurai, especially, when the Respondent Bank has proved the service of Possession Notice in accordance with the provisions of the SARFAESI Act and Rules made there under. Thus, this Tribunal confirms the order passed by

Learned Presiding Officer, DRT, Madurai, dated 30.04.2015 and dismisses this Appeal.

18. In the result, the Appeal in RA (SA) 122/2025 is dismissed with the costs of Respondent Bank. All pending IAs, if any, stand closed.

[Dictated to Athistamani, PS, transcribed by her, corrected and signed by me this 02<sup>nd</sup> of February, 2026]

**[Justice G. Chandrasekharan]**  
CHAIRPERSON