



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 1606 OF 2026

M. R. VASUMATHI

... APPELLANT

VERSUS

THE AUTHORIZED OFFICER & ORS.

... RESPONDENTS

J U D G M E N T

DIPANKAR DATTA, J.

THE APPEAL

1. This appeal is directed against the judgment and order dated 21.09.2020¹ passed by the High Court of Judicature at Madras² in Writ Petition No. 29641 of 2019. *Vide* the impugned judgment, the High Court of Judicature at Madras dismissed the writ petitions filed by the appellant (daughter) as well as the son of the deceased guarantor³, thereby declining to interfere with the measures adopted by the first respondent being the authorised officer of the Indian Bank⁴ under the Securitisation

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Reason: Impugned judgment
High Court

³ G. Ramanujam

⁴ secured creditor

and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002⁵, culminating in the auction sale of the secured asset.

2. Appellant questions the legality of the said proceedings, particularly the auction sale held on 11.03.2010, on the ground that the statutory procedure governing such sale was not complied with.
3. The first respondent is the authorised officer of the secured creditor. The second respondent is the auction purchaser, being the successful bidder in the auction sale of the secured asset. The remaining respondents are the other legal heirs/representatives who were parties to the proceedings before the High Court and have been arrayed as formal parties in the present proceedings.

GENESIS

4. Briefly, the facts triggering this appeal are these:
 - a. One S. Murugesan⁶, sole proprietor of M/s Shiv Shankar Agencies, had availed financial assistance from the secured creditor in the year 1984. To secure the said loan, G. Ramanujam stood as guarantor and mortgaged his immovable property in favour of the secured creditor.
 - b. On account of the default committed by the borrower, the secured creditor instituted a suit⁷ before the City Civil Court, Chennai against the borrower and the guarantor, seeking recovery of the

⁵ SARFAESI Act

⁶ borrower

⁷ O.S. No. 4067 of 1996

- outstanding dues. On 10.09.1997, the said court passed a preliminary decree in favour of the secured creditor for a sum of Rs. 1,87,004.23 [in effect, the total sum was Rs. 1,92,400.23p (inclusive of Court Fee of Rs. 5396/-)] along with interest @ of 18% per annum.
- c. G. Ramanujam expired on 26.09.2001 leaving behind his heirs including the appellant. Several attempts were thereafter made by and between the secured creditor and the heirs of G. Ramanujam for an amicable settlement, but the same did not fructify.
 - d. On 08.09.2009, nearly (12) twelve years after the passing of the preliminary decree, the secured creditor issued a demand notice under Section 13(2) of the SARFAESI Act to the borrower and the heirs of G. Ramanujam. Subsequently, the secured creditor issued a possession notice dated 21.12.2009 and later a sale notice dated 03.02.2010 proposing to sell the secured asset by way of public auction under the Security Interest (Enforcement Rules), 2002⁸.
 - e. The secured asset was ultimately put to auction on 11.03.2010, in which the respondent 2 herein emerged as the successful bidder⁹ with a bid amount of Rs. 2,11,00,500/-. Admittedly, 25% of the bid amount was paid by the auction purchaser on 10.03.2010/11.03.2010, and the remaining 75% of the sale

⁸ SARFAESI Rules

⁹ auction purchaser

consideration was paid on 31.03.2010. The sale certificate was issued by the secured creditor on 10.04.2010.

- f. The heirs of G. Ramanujam challenged the aforesaid demand notice before the Debts Recovery Tribunal, Chennai¹⁰ by applying under Section 17 of the SARFAESI Act (S.A. No. 28 of 2010). On 28.09.2010, the heirs of G. Ramanujam, including the appellant, further filed S.A. No. (Sr.No.6473 of 2010) seeking to set aside the auction sale, which was held on 11.03.2010 and confirmed in favour of the auction purchaser. During the pendency of the proceedings in S.A. (Sr. No. 6473 of 2010), the legal heirs, including the appellant herein, filed M.A.6504 of 2010 seeking permission to redeem the property; M.A.6505 of 2010 to condone the delay in filing the application No. 6473 of 2010 and M.A. 6506 of 2010 seeking interim stay.
- g. On 30.12.2010, the DRT dismissed S.A. No. 28 of 2010, primarily on the ground that since the sale schedule property was already sold, the said application challenging the notice of intended sale became infructuous. It also held that the secured creditor had adhered to the procedure under the SARFAESI Act. Followingly, on the same day, the DRT dismissed SA (Sr. No. 6473/2010) along with the MAs (Sr. Nos. 6504, 6505 & 6506/2010) on the ground that section 5 of the Limitation Act, 1963¹¹ would not be applicable

¹⁰ DRT

¹¹ Limitation Act

- to the application under section 17 of the SARFAESI Act.
- h. Appeals, being M.A. (S.A. No. 107 of 2011) and R.A. (S.A. No. 91 of 2014), were carried before the Debts Recovery Appellate Tribunal, Chennai¹² challenging the dismissal of M.A. Sr. No. 6505 of 2010, filed in S.A. Sr. No. 6473 of 2010 by the appellant and her brother.
 - i. The DRAT first dismissed the appeal, i.e., R.A. (S.A. No. 91 of 2014) filed by the brothers of the appellant, by an order dated 16.12.2016, affirming the reason assigned by the DRT. Consequently, the DRAT also dismissed the appeal of the daughter of G. Ramanujam and other heirs, being M.A. (S.A. No. 107 of 2011).
 - j. Aggrieved thereby, the appellant approached the High Court in W.P. No. 29641 of 2019, and her brother (son of G. Ramanujam) filed the connected W.P. No. 27770 of 2019. The High Court *vide* the impugned judgment dismissed both the writ petitions holding that the secured creditor had validly exercised its powers under the SARFAESI Act and that no interference was warranted.
 - k. Still aggrieved, the present civil appeal has been preferred by the daughter of G. Ramanujam.

SUMMARY OF THE IMPUGNED JUDGMENT

5. The High Court, by the common impugned judgment, dismissed W.P.

¹² DRAT

No. 29641 of 2019 and W.P. No. 27770 of 2019. At the outset, the High Court noted that the foundational facts were largely not in question. The loan transaction dated back to 1984; a preliminary decree had been passed in 1997 on the basis of a mortgage created by G. Ramanujam; and the subsequent attempts at settlement having become nugatory, recourse was eventually taken by the secured creditor under the SARFAESI Act, culminating in the sale of the secured asset in 2010. The challenge mounted by the heirs of G. Ramanujam before the High Court was essentially directed against the recovery proceedings and the consequent auction.

- 6.** The High Court found the challenge to be entirely untenable in light of the conduct of the appellant and her brother, being the writ petitioners. It was observed that the writ petitioners had remained indolent for an inordinate length of time, notably on the aspect of failing to take steps to set aside the *ex parte* decree for approximately over 4500 (forty five hundred) days. Such a prolonged inaction, in the Court's view, disentitled them from challenging the subsequent recovery proceedings. The writ petitioners' attempt to assail the actions of the secured creditor, having remained in a state of inertia, was characterised by the High Court as lacking in *bona fides*.
- 7.** On the anvil of limitation, the High Court rejected the contention that the proceedings under the SARFAESI Act were barred merely because they were initiated several years after the decree. It went on to hold

that the secured creditor continuously pursued recovery, subsuming attempts at one-time settlement, and that the statutory framework introduced concomitantly permitted recourse to the SARFAESI Act as an efficacious remedy. The delay, therefore, was held not to be fatal so as to invalidate the proceedings.

- 8.** Furthermore, the High Court held that the writ petitioners had fundamentally misconstrued the nature and object of the SARFAESI Act. It was observed that the legislation was enacted to provide an expeditious mechanism for recovery of secured debts, independent of the conventional civil court process. The mere existence of a prior decree or the availability of remedies under other enactments was held not to preclude the secured creditor from invoking the provisions of the SARFAESI Act.
- 9.** Apropos the alleged procedural infirmities in the auction process, the High Court underscored that both the DRT and the DRAT had returned concurrent findings affirming due compliance with the statutory requirements and that no material irregularity or illegality was evinced, which demanded interference in the exercise of writ jurisdiction. On the contrary, the High Court noted that the auction purchaser had acquired rights consequent upon the completed sale and had been subjected to protracted litigation.

10. The sequitur was the dismissal of the writ petitions by the High Court, on the premise that the natural circulation of public money cannot be thwarted by frivolous personal litigation.

SUBMISSIONS ON BEHALF OF VASUMATHI (APPELLANT)

11. Learned senior counsel, Mr. Ratnakar Dash, appearing on behalf of the appellant contended before us that after 25 (twenty five) years of the preliminary decree, the secured creditor issued notice under Section 13(2) of the SARFAESI Act to the heirs of G. Ramanujam, who passed away after the preliminary decree was passed by the Civil Court, claiming Rs. 95,42,372.52p. The same was contended to be unjustifiable. Besides this, it was also urged that the secured creditor took the decision to sell the secured asset in haste *sans* adherence to the provisions of law.
12. It was submitted by Mr. Dash that the secured creditor instead of obtaining a valuation report from its officers, played fraud by obtaining valuation report through the original borrower, namely S. Murugesan, which was argued not to be in terms of Rule 8(5) of the SARFAESI Rules mandating that the report has to be obtained by the authorised officer of the secured creditor.
13. Mr. Dash contended that Rule 9(3) of the SARFAESI Rules provides for the mandate of depositing the 25% of the sale price immediately on the date of sale and that in default, the property will be resold. It was asserted that the auction purchaser had failed to pay the 25%

deposit "immediately" in the prescribed mode (DD/BPO) on the date of sale, i.e., 11.03.2010. Furthermore, the balance 75% was allegedly paid beyond the mandatory 15-day period on 31.03.2010 without a written agreement for extension, rendering the sale a complete nullity. It was argued that the secured creditor had waived the delay in the payment, and that the waiver could not have been a unilateral act.

- 14.** Mr. Dash further urged the Court to believe that even if the market price of the property in question was Rs. 2.11 crore, for the satisfaction of the debt of Rs. 95 lakh+ as claimed, only a portion of the property ought to have been sold and not the entire property.
- 15.** Mr. Dash next assailed the reliance placed by the secured creditor on the amended definition of "debt" under Section 2(ha) of the SARFAESI Act, as introduced by Act 44 of 2016. According to him, the proceedings in question must be governed by the unamended definition, as it stood at the time of institution of the original proceedings.
- 16.** In sum and substance, it was urged by Mr. Dash that the proceedings initiated under the SARFAESI Act were illegal and without jurisdiction since the claim of the secured creditor once stood adjudicated by the competent civil court *vide* the passing of the preliminary decree and, therefore, the secured creditor ought to have proceeded for execution of the decree. He referred to Section 36 of the SARFAESI Act, which

mandates the measures to be taken under section 13(4) thereof to be within the limitation period stipulated under the Limitation Act and prayed that the appeal be allowed.

SUBMISSIONS ON BEHALF OF THE SECURED CREDITOR (RESPONDENT 1)

- 17.** Mr. Brijesh Kumar Tamber, learned counsel, appearing on behalf of the secured creditor, maintained that the definition of "debt" under the SARFAESI Act and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, expressly includes liabilities payable under a decree and accrued interest and that the proceedings under the SARFAESI Act were initiated only after the guarantor's legal heirs defaulted on settlement attempts between 2001 and 2003.
- 18.** It was further contended that the auction was conducted transparently, with the respondent no.2 (auction purchaser) emerging as the highest bidder at Rs. 2.11 crore, well above the reserve price of Rs. 1.58 crore. Mr. Tamber urged that the bid amount was deposited within the stipulated timelines and that any minor delay in payment was within the secured creditor's power to waive or extend under the SARFAESI Rules.
- 19.** Much emphasis was laid by Mr. Tamber on concurrent upholding of the validity of the sale by the DRT, the DRAT and the High Court, finding no irregularity in the interest calculation or the auction procedure. Dismissal of the appeal was, accordingly, prayed.

SUBMISSIONS OF THE AUCTION PURCHASER (RESPONDENT 2)

- 20.** Mr. Soumya Chakraborty, learned senior counsel for the auction purchaser sought protection of his rights as a *bona fide* purchaser, who has been kept out of the property's full enjoyment for over a decade. It was argued that the appellant is attempting to re-agitate settled factual issues, which is impermissible.
- 21.** According to Mr. Chakraborty, the payment of Rs. 2.11 crore was made in 2010 (25% on 10.03.2010/11.03.2010 and the balance on 31.03.2010). He asserted that the sale was confirmed by the Bank and the certificate issued in April 2010, making the transaction final. It was also urged that cancelling an auction sale conducted 16 (sixteen) years ago would be catastrophic, as the auction purchaser has suffered immensely in the meantime – deprived of the opportunity to develop the property, costs, and inflation as a result of the prolonged litigation, initiated by the appellant. He, thus, prayed for dismissal of the appeal.

ISSUES INVOLVED

- 22.** Two broad issues arise for consideration:

 - a. Whether the proceedings under the SARFAESI Act initiated in the year 2009, nearly 12 (twelve) years after the passing of the preliminary decree, stand vitiated on the ground of limitation?

- b. Whether the sale of the secured asset pursuant to the impugned proceedings stands vitiated on account of alleged non-compliance with statutory requirements and procedural irregularities?

ANALYSIS

- 23.** The rival submissions of the parties and perusal of the material on record bring to the fore the controversy at hand, which may be profitably narrowed down to the legality of the auction sale conducted under the framework of the SARFAESI Act and the SARFAESI Rules.
- 24.** As a prefatory note, it is observed that the validity of an auction conducted under the statutory regime is not to be tested on equitable considerations but strictly on the ground whether the mandate of the statute and the rules has been breached or not. The SARFAESI Rules being subordinate legislation, bind the secured creditor as well as the auction purchaser with equal rigour.

I. COMPLIANCE WITH RULE 9: A STATUTORY SINE QUA NON

- 25.** Rule 9 of the SARFAESI Rules squarely governs the confirmation of sale and the manner of payment of the sale consideration. Sub-Rules 3, 4 and 5 of the unamended SARFAESI Rules¹³ may profitably be noticed thus:

(3) On every sale of immovable property, the purchaser shall immediately pay a deposit of twenty-five % of the amount of the sale

¹³ unamended SARFAESI Rules, as it stood at the time of the impugned sale

price, to the authorised officer conducting the sale and in default of such deposit, the property shall forthwith be sold again.

(4) The balance amount of purchase price payable shall be paid by the purchaser to the authorised officer on or before the fifteenth day of confirmation of sale of the immovable property or such extended period as may be agreed upon in writing between the parties.

(5) In default of payment within the period mentioned in sub-rule (4), the deposit shall be forfeited and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

(emphasis ours)

26. As a sequitur to the aforementioned legal provisions, the auction purchaser is mandated to immediately deposit 25% of the sale price (inclusive of earnest money) on the date of sale; and in default of such deposit, the property shall forthwith be resold. Further, the balance of purchase price is required to be paid within the fifteenth day of confirmation of sale or within such written agreed extended time, failing which the deposit shall stand forfeited. Also, in such a case, the purchaser would forfeit all his claims either to the property or to any part of the sum for which such property may subsequently be sold.

27. The aforesaid legal position finds lucid expression in ***Sri Siddeshwara Cooperative Bank Ltd. v. Ikbal***¹⁴, as follows:

13.3. Sub-rule (3) lays down that on every sale of immovable property, the purchaser shall immediately make the deposit of 25% of the amount of the sale price. In default of such deposit, the property shall forthwith be sold again.

13.4. Sub-rule (4) provides that the balance amount of purchase price payable shall be paid by the purchaser on or before the fifteenth day of confirmation of sale of the immovable property or such extended period as may be agreed upon in writing between the parties.

¹⁴ (2013) 10 SCC 83

13.5. Sub-rule (5) makes a provision that if the balance amount of purchase price is not paid as required under sub-rule (4), then the deposit shall be forfeited and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

13.6. According to sub-rule (6), on confirmation of sale by the secured creditor and if the terms of payment have been complied with, the authorised officer exercising power of sale shall issue a certificate of sale of the immovable property in favour of the purchaser in the form given in Appendix V to the 2002 Rules.

14. A reading of sub-rule (1) of Rule 9 makes it manifest that the provision is mandatory. The plain language of Rule 9(1) suggests this. Similarly, Rule 9(3) which provides that the purchaser shall pay a deposit of 25% of the amount of the sale price on the sale of immovable property also indicates that the said provision is mandatory in nature. As regards balance amount of purchase price, sub-rule (4) provides that the said amount shall be paid by the purchaser on or before the fifteenth day of confirmation of sale of immovable property or such extended period as may be agreed upon in writing between the parties. The period of fifteen days in Rule 9(4) is not that sacrosanct and it is extendable if there is a written agreement between the parties for such extension. What is the meaning of the expression "written agreement between the parties" in Rule 9(4)? The 2002 Rules do not prescribe any particular form for such agreement except that it must be in writing. The use of the term "written agreement" means a mutual understanding or an arrangement about relative rights and duties by the parties. For the purposes of Rule 9(4), the expression "written agreement" means nothing more than a manifestation of mutual assent in writing. The word "parties" for the purposes of Rule 9(4) we think must mean the secured creditor, borrower and auction-purchaser.

19. There is no doubt that Rule 9(1) is mandatory but this provision is definitely for the benefit of the borrower. Similarly, Rule 9(3) and Rule 9(4) are for the benefit of the secured creditor (or in any case for the benefit of the borrower). It is settled position in law that even if a provision is mandatory, it can always be waived by a party (or parties) for whose benefit such provision has been made. The provision in Rule 9(1) being for the benefit of the borrower and the provisions contained in Rule 9(3) and Rule 9(4) being for the benefit of the secured creditor (or for that matter for the benefit of the borrower), the secured creditor and the borrower can lawfully waive their right. These provisions neither expressly nor contextually indicate otherwise. Obviously, the question whether there is waiver or not depends on the facts of each case and no hard-and-fast rule can be laid down in this regard.

(emphasis ours)

- 28.** Even upon a cursory perusal of Rule 9 of the SARFAESI Rules that existed at the time of the impugned sale, it is clear that these provisions are neither ornamental nor directory; they are couched in mandatory terms and go to the root of the validity of the sale. A conjoint reading of the relevant sub-rules of Rule 9 underscore the mandatory character of these provisions, particularly accentuating the requirement of balance deposit under sub-rule (4), which is integral to the sanctity and credibility of the auction mechanism. Any deviation therefrom, absent legally sustainable justification, would render the process vitiated.
- 29.** The factual position, as is borne out from the extant record, is not in serious dispute – i) auction sale was conducted on 11.03.2010; ii) auction purchaser was declared successful on the said date; iii) 25% of the bid amount was deposited on 10.03.2010/11.03.2010 *vide* a demand draft of Rs. 9,00,000/-, prepared on 10.03.2010; and iv) two further demand drafts of Rs. 6,80,000/- and Rs. 36,95,125/- were furnished on 11.03.2010.
- 30.** However, the balance 75% of the bid amount was admittedly paid only on 31.03.2010. The lingering *lis* is as to whether this subsequent deposit satisfies Rule 9(4). The outer time limit of fifteen days expired on 26.03.2010, as reflected in the communication issued by the secured creditor dated 11.03.2010, which may be reproduced here for the convenience of reference:

4. Please note that you have to pay the balance sale price within 15 days of Confirmation of Sale ie., today. In case of your failure to pay as said above, the entire bid amount paid by you shall be forfeited by the Authorised Officer without any notice and the sale will be cancelled.

- 31.** The payment of the remaining 75%, on 31.03.2010 is, therefore, *ex facie* beyond the statutory period. In view of the above, the contention of the auction purchaser that the sale stood confirmed only on 11.03.2010 is untenable.
- 32.** The following passage from ***IDBI Bank Ltd. v. Ramswaroop Daliya***¹⁵ lends credence to the proposition:

13. Notwithstanding the above, the provisions of sub-Rules (4) and (5) of Rule 9 of the Rules, if read together in conjunction, would reveal that it is only for the default in payment of the balance auction amount within the period mentioned that the property could be resold and that the period of 15 days stipulated therein for the deposit of the balance sale amount may be extended, as may be agreed upon in writing. It means that first there has to be a default on part of the auction purchaser to invite cancellation of the auction and second, that the period of deposit stipulated therein is not absolute rather extendable with the agreement of the parties.

(emphasis ours)

- 33.** Furthermore, the contention advanced on behalf of the secured creditor by its learned counsel that any deviation in the timeline of payment stood regularised by a valid exercise of power of extension or waiver is equally unbacked by any demonstrable material. Nothing is borne out of the record to demonstrate that there was any prayer for extension of time made by the auction purchaser at any time prior

¹⁵ 2024 SCC OnLine SC 2878

to 31.03.2010 or that any written agreement extending the time was entered into by and between the secured creditor and the auction purchaser.

- 34.** The aforesaid legal position leads us to the examination of the consequence of non-compliance with the statutorily ordained timeline, in the absence of any record of written agreement between the secured creditor and the auction purchaser in the present factual matrix.

II. CONSEQUENCE OF NON-COMPLIANCE

- 35.** The DRT, the DRAT and the High Court appear to have proceeded on a broader premise of consideration of delay, conduct of the borrower, and the perceived equities in favour of the auction purchaser. Equally, it is true that the record bears out that no concrete steps were ultimately taken by the appellant, who is the daughter of the deceased guarantor, to liquidate the outstanding dues and that earlier attempts at settlement did not come to fruition. However, in our considered opinion, the failure to repay without being informed of an extension being granted to the auction purchaser, by itself, cannot validate proceedings that are otherwise vitiated in law.

- 36.** While it is trite that the rights of an auction purchaser and the sanctity of a confirmed sale ordinarily merit due protection, such protection is by no means absolute. It must yield where the very process engendering the sale is demonstrated to be legally infirm or to be incongruous with the statutory framework. The object of proceedings

under the SARFAESI Act is not the mere culmination of a sale in a mechanical manner, but the lawful realisation of the secured asset through a process that is fair, transparent and strictly compliant with the prescribed rules. In the present case, the non-adherence to the timeline that the SARFAESI Rules contemplate constitutes a material irregularity going to the root of the matter. The mere factum that the sale stood confirmed cannot, therefore, foreclose judicial scrutiny.

- 37.** It is true that there is no express or formal articulation, in so many words, by the appellant evincing her readiness and willingness to tender the stipulated amount for redemption of the secured asset. However, the matter cannot be posited in such a narrow compass. The record unmistakably discloses that the appellant, along with the other legal heirs, had instituted multiple miscellaneous applications before the DRT, *inter alia*, seeking permission to redeem the property upon the deposit of the required amount and to set aside the consequences of the sale. Such steps, taken in the teeth of adverse proceedings, cannot be disregarded as inconsequential or merely procedural. On the contrary, they evince a clear manifestation of intent, although implicit, that the appellant was desirous of redeeming the property upon being accorded with an opportunity to do so. Viewed in this prism, the filing of the said application must be construed as sufficient indication of the appellant's willingness to redeem.

- 38.** Even otherwise, as a logical sequitur, the contention that the guarantor or his legal heirs did not evince adequate interest in repayment does not advance the case of the secured creditor, for a process vitiated by statutory non-compliance cannot otherwise be sanctified on such considerations.
- 39.** The property in question belonged to G. Ramanujam, the deceased guarantor, and upon his demise, vested in his legal heirs. Such heirs cannot be divested of their lawful interest except in accordance with a procedure that is fair, just and in strict conformity with the governing statute, i.e., the SARFAESI Act and the SARFAESI Rules.

CONCLUSION

- 40.** In view of the foregoing discussion, the appeal deserves to be allowed in part and is, accordingly, allowed to the extent mentioned hereafter. The impugned judgment and order passed by the High Court is set aside, as are the orders passed by the DRAT and the DRT.
- 41.** Consequently, the auction sale conducted in respect of the secured asset stands quashed and set aside.
- 42.** However, having regard to the fact that the auction purchaser had participated in the process and deposited the bid amount pursuant thereto, interests of equity demand suitable restitution of interests of such purchaser. Although the sale is being set aside for reasons not attributable to him, he has remained deprived of the use of the monies deposited by him for a significant length of time. Accordingly,

the auction purchaser shall be entitled to refund of the entire amount deposited by him together with interest thereon @ 7% per annum from the respective dates of deposit until payment. Such refund shall be effected by the secured creditor within a period of 6 (six) weeks from date.

43. At the same time, the appellant being the legal heir of G. Ramanujam would now be entitled to an opportunity to redeem the mortgage and seek restoration of the secured asset in her favour till such time a notice for a fresh auction is issued on her failure to redeem. We grant her such opportunity. Appellant shall be at liberty to approach the secured creditor within two weeks from date with a copy of this judgment to ascertain the amount due and payable. Upon payment being made within the time to be stipulated by the secured creditor (which will not be less than a month from the date intimation is given to the appellant), legal consequences will follow.

44. In moulding the relief, we have borne in mind the peculiar fact situation of the case. The demand notice issued under Section 13(2) of the SARFAESI Act quantified the outstanding dues at Rs.95,42,372.52p. At the same time, the appellant cannot be permitted to secure restoration of the mortgaged property without satisfying the liability which constituted the fulcrum of the measures initiated by the secured creditor. Balancing the competing equities and in order to do complete justice between the parties, we deem it

appropriate to direct that the appellant shall be entitled to redeem the mortgage and obtain restoration of the secured asset upon payment to the secured creditor of a sum of Rs.95,42,372.52p together with 5% interest per annum thereon from the date the notice under Section 13(2) of the SARFAESI Act was issued until the date of such payment by the appellant. Upon payment being made within the period stipulated by the secured creditor in terms of paragraph 44 above, the secured asset shall stand restored to the appellant free from all encumbrances arising out of the subject loan transaction.

- 45.** The secured asset may, however, be put up for auction once again 8 (eight) weeks hence should the appellant fail to pay the amount determined by the secured creditor in terms of this order; and during this period, the secured creditor will obtain a fresh valuation report from a government-empanelled valuer.
- 46.** The directions contained in paragraphs 43 to 46 hereinabove are issued in exercise of the jurisdiction of this Court under Article 142 of the Constitution and shall constitute a one-time measure intended to balance the equities of the parties in the peculiar facts of the present case. It is clarified that in the event of failure on the part of the appellant to avail this one-time opportunity, she will forfeit all her rights to the secured asset.

- 47. In light of the conclusion arrived at by us on the second issue *qua* the validity of the auction sale and the consequential reliefs flowing therefrom, it is considered superfluous to render a conclusive determination on the first issue relating to limitation. The same is, accordingly, left open.
- 48. The appeal stands disposed of on the above terms. Connected applications, if any, stand disposed of.
- 49. Parties shall bear their own costs.
- 50. Registry is directed to send this judgment and order to the email address of the learned advocate-on-record for the appellant immediately.

.....J.
(DIPANKAR DATTA)

.....J.
(AUGUSTINE GEORGE MASIH)

**NEW DELHI;
JUNE 9, 2026.**