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SARFAESI

Title Disputes and the Narrow Remit of Section 17: The DRT Ernakulam on Third-Party Challenges to Securitization

Recovery statutes and general civil jurisdiction continues to generate significant judicial debate, particularly in the context of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). In a recent pronouncement, the Debt Recovery Tribunal, Ernakulam, speaking through its Presiding Officer Shri Sovan Kumar Dash, in Seethalakshmi v. Authorised […]

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Recovery statutes and general civil jurisdiction continues to generate significant judicial debate, particularly in the context of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). In a recent pronouncement, the Debt Recovery Tribunal, Ernakulam, speaking through its Presiding Officer Shri Sovan Kumar Dash, in Seethalakshmi v. Authorised Officer, Catholic Syrian Bank Ltd. and Ors., Securitization Application No. 231 of 2017, decided on 6 May 2026, addressed the critical question of whether a third party aggrieved by securitization proceedings can invoke the Tribunal's jurisdiction under Section 17(1) of the SARFAESI Act to challenge the validity of underlying title documents and mortgage deeds. The judgment reaffirms the extremely limited scope of adjudication conferred upon Debt Recovery Tribunals under Section 17(2) and highlights that questions of title and document validity fall exclusively within the domain of civil courts under the Code of Civil Procedure, 1908.

The factual matrix leading to the application is both complex and illustrative of the perils of informal property arrangements. The applicant, Seethalakshmi, claims to be the owner of 12.84 cents of land situated in re-survey No. 196/7 of Mananthala Village, having purchased the property through document No. 900 of 1991 registered at the Chavakkad Sub Registrar Office, upon which she and her husband constructed a residential building. The fourth defendant is a partnership firm conducting jewellery business, while the third defendant is a partner of the said firm. The applicant contends that in the year 2009, she purchased gold ornaments valued at ?22,00,000/- on credit from the fourth defendant, guaranteed by the third defendant. At the latter's insistence, she executed a document styled as a sale deed bearing No. 1435 of 2009, which she characterises not as a genuine conveyance but merely as a security arrangement to secure the credit purchase, with an assurance that the property would be re-registered in her name upon repayment. Subsequently, the applicant discovered that the third and fourth defendants had obtained a loan from the second defendant, Catholic Syrian Bank Ltd., by mortgaging the said property. When confronted, the third defendant executed an agreement dated 09.10.2015, undertaking to settle the entire bank claim and to register the property in the applicant's name within three months.

Upon default in repayment by the principal borrowers, the first and second defendants initiated securitization proceedings under the SARFAESI Act. They filed an application before the Chief Judicial Magistrate Court, Thrissur in Criminal M.P. No. 5176 of 2016 seeking physical possession of the secured assets. The applicant challenged the possession notice by filing W.P.(C) No. 29333 of 2017(N) before the Hon'ble High Court of Kerala, which disposed of the matter by a judgment dated 20.09.2017, permitting the applicant to take appropriate remedy before the Debt Recovery Tribunal. Simultaneously, the applicant filed two civil suits, O.S. No. 801 of 2016 and O.S. No. 1427 of 2017, before the Munsiff Court, Chavakkad, seeking declarations of her right, title, and interest over the subject matter property, and also obtained and subsequently lost a temporary injunction in one of these suits. Aggrieved by the impending dispossession, the applicant filed the present Securitization Application under Section 17(1) of the SARFAESI Act, seeking a declaration that the defendants were not entitled to take possession of the secured asset and that the securitization proceedings were null and void, together with all consequential reliefs.

Before the Tribunal, the rival contentions were sharply delineated. The applicant contended that she was the true owner of the property, that the sale deed of 2009 was merely a security document executed under coercion and misrepresentation, and that the mortgage created by the third defendant was fraudulent and without her consent. She emphasised that the agreement dated 09.10.2015 acknowledged her ownership and that dispossession would cause irreparable hardship. She further relied upon the pending civil suits to argue that the securitization proceedings were vitiated by the defective underlying title. On the other hand, the defendants, vehemently opposed the application. They contended that the applicant, being a third party to the securitization proceeding, possessed no locus standi to interfere with the statutory recovery mechanism. They relied upon the registered sale deed of 2009 and the letter of confirmation dated 26.02.2014 to establish that the third defendant had validly created a security interest in favour of the Bank. They argued that the applicant having alienated the property in 2009 had no legal right to claim any interest therein, and that the Securitization Application was devoid of merit.

The Tribunal framed three interlinked issues for adjudication: whether the applicant had any right to interfere with the securitization proceeding; whether the sale deed executed by the applicant was a genuine conveyance or merely a security arrangement; and whether the applicant was entitled to any relief in the proceeding. In resolving these issues, the Tribunal placed decisive reliance upon the judgment of the Supreme Court in Central Bank of India & Another v. Prabha Jain & Others, Civil Appeal No. 1876 of 2016, order dated 09.01.2025, wherein the Apex Court held that the SARFAESI Act is enacted essentially to provide a speedy mechanism for recovery of debts by banks and financial institutions, and has not been enacted for providing a mechanism for adjudicating upon the validity of documents or to determine questions of title finally. The Supreme Court further clarified that the DRT does not have jurisdiction to grant a declaration with respect to the mortgage deed or the sale

deed as sought by the plaintiff, and that such jurisdiction is vested with the civil court under Section 9 of the Code of Civil Procedure, 1908.

Applying this ratio decidendi, the Tribunal observed that the scope of its adjudication under Section 17(2) of the SARFAESI Act is extremely limited, confined strictly to examining whether the measures referred to in Section 13(4) are in accordance with the provisions of the Act and the Rules made thereunder. The Tribunal held that it could not go behind the securitization proceedings to decide the applicant's claim that the sale deed was not a real conveyance but merely a security document. It further noted that the applicant had already filed civil suits challenging the document before the competent civil court, which was the proper forum for determining questions of title and the validity of the sale deed. Consequently, the Tribunal held that the applicant's claim was not legally sustainable in the DRT forum, and that both the issues regarding her right to interfere and her entitlement to relief must be answered against her.

In the final order, the Tribunal dismissed the Securitization Application as devoid of any merit, and imposed costs of ?20,000/- upon the applicant to be paid to the defendants for causing unnecessary delay in the securitization proceedings. The judgment stands as a salutary reminder that while Section 17(1) of the SARFAESI Act provides a remedy to persons aggrieved by measures under Section 13(4), the Tribunal's jurisdiction under Section 17(2) is not a roving mandate to adjudicate upon title disputes or the substantive validity of underlying documents. Parties seeking to challenge the genuineness of sale deeds or mortgage deeds must resort to civil courts under Section 9 of the CPC, and cannot use the summary mechanism of the SARFAESI Act to stall legitimate debt recovery. The decision reinforces the statutory architecture of the SARFAESI Act as a special and speedy recovery statute, while preserving the exclusive domain of civil courts in matters of title adjudication and document validity.

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