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# IN THE HIGH COURT OF JUDICATURE AT MADRAS

| Reserved on | 09.02.2026 |
|---|---|
| Pronounced on | 16.03.2026 |

CORAM :

**THE HONOURABLE MR. JUSTICE C.SARAVANAN**

W.P.Nos.1587 and 1593 of 2024
and
W.M.P.Nos.1616, 1617, 1624 and 1625 of 2024

W.P.No.1587 of 2024

1.Union Bank of India,
(Erstwhile – Andhra Bank),
Stressed Assets Management Branch,
Represented by its Chief Manager,
No.38 & 39, Whites Road,
Royapettah,
Chennai – 600 014.

2.Punjab National Bank,
Represented by its Branch Manager,
No.5, West Boulevard Road,
Tiruchirappalli – 620 008. ... Petitioners

Vs.

1.The Commissioner,
Income Tax Department,
No.44, Williams Cantonment Road,
Tiruchirappalli – 620 001.

2.The Sub Registrar,
Office of the Sub-Registrar,



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Chetticulam,
Thuraiyur Road,
Perikurukkai Village,
Chetticulam – 621 104.

3.M/s.Parameswara Mangalam Steels (P) Ltd.,
No.69, Ganapathy Nagar,
Thiruvanaikoil,
Tiruchirappalli – 620 005.

4.P.S.Krishnamurthy,
S/o.P.R.Subramanian

5.P.K.Srinivasan,
S/o.P.S.Krishnamurthy

6.K.Vadivambal,
W/o.P.S.Krishnamurty

7.Sinduja,
W/o.Srinivasan

8.Subbarayan Deivasigamani,
S/o.Subbaraya Gounder ... Respondents

Prayer in W.P.No.1587 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Declaration, to declare the order of attachment dated 09.10.2018 passed by the 1st Respondent registered as Doc.No.17/2018 respectively reflecting on the Encumbrance Certificate on the file of 2nd Respondent are subsequent to mortgage of the Petitioner banks and consequently direct the 2nd Respondent to register the Sale Certificate dated 23.06.2023 issued by the Petitioner bank in favour of the 8th Respondent.



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W.P.No.1593 of 2024

1.Union Bank of India,
(Erstwhile – Andhra Bank),
Stressed Assets Management Branch,
Represented by its Chief Manager,
No.38 & 39, Whites Road,
Royapettah,
Chennai – 600 014.

2.Punjab National Bank,
Represented by its Branch Manager,
No.5, West Boulevard Road,
Tiruchirappalli – 620 008. ... Petitioners

Vs.

1.The Assistant Commissioner of Commercial Tax,
Lalkudi Division,
Tiruchirappalli.

2.The Sub Registrar,
Office of the Sub-Registrar,
Chetticulam,
Thuraiyur Road,
Perikurukkai Village,
Chetticulam – 621 104.

3.M/s.Parameswara Mangalam Steels (P) Ltd.,
No.69, Ganapathy Nagar,
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4.P.S.Krishnamurthy,
S/o.P.R.Subramanian

5.P.K.Srinivasan,
S/o.P.S.Krishnamurthy



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6.K.Vadivambal,
W/o.P.S.Krishnamurty

7.Sinduja,
W/o.Srinivasan

8.Subbarayan Deivasigamani,
S/o.Subbaraya Gounder ... Respondents

Prayer in W.P.No.1593 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Declaration, to declare the Na.A.No.557-2015-A3 and Na.A.No.556/2015/A3 dated 06.04.2015 respectively reflecting on the Encumbrance Certificate on the file of 2nd Respondent are subsequent to mortgage of the Petitioner banks and consequently direct the 2nd Respondent to register Sale Certificate dated 23.06.2023 issued by the Petitioner bank in favour of the 8th Respondent.

| | | |
|---|---|---|
| For Petitioners<br>(In both W.Ps) | : | Mr.N.Sivabalan<br>for Mr.S.Sethuraman |
| For Respondents<br>(In both W.Ps) | : | |
| For R1 | : | Mr.Avinash Krishnan Ravi<br>Junior Standing Counsel and<br>Mr.B.Ramanakumar<br>Senior Standing Counsel |
| For R2, R4 and R5 | : | No appearance |
| For R3, R6 and R7 | : | Left |
| For R8 | : | Mr.G.Senthilkumar |



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**COMMON ORDER**

These two Writ Petitions pertain to the very same property. However, the reliefs sought for in these Writ Petitions are against the Order of Attachment of the 1st Respondent in the respective Writ Petitions namely, the Commissioner, Income Tax Department and the Assistant Commissioner of Commercial Tax, Commercial Tax Department.

2. In W.P.No.1587 of 2024, the Petitioners have sought for a declaration that the Order of Attachment dated 09.10.2018 passed by the 1st Respondent/the Commissioner, Income Tax Department registered as Document No.17/2018, reflecting on the Encumbrance Certificate on the file of the 2nd Respondent/the Sub-Registrar which is subsequent to the mortgage executed in favour of the Petitioners Banks and to consequently direct the 2nd Respondent/the Sub-Registrar to register the Sale Certificate dated 23.06.2023 issued by the 1st Petitioner Bank/Union Bank of India in favour of the 8th Respondent, namely, Mr.Subbarayan Deivasigamani.

3. In W.P.No.1593 of 2024, the Petitioners have sought for a consequential relief to declare that the Order of Attachment dated 06.04.2015 of the 1st Respondent/Assistant Commissioner of Tax therein, which is also



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subsequent to the mortgage executed in favour of the Petitioners Bank and to direct the 2nd Respondent/the Sub-Registrar to register the Sale Certificate dated 23.06.2023 issued by the 1st Petitioner Bank/Union Bank of India in favour of the 8th Respondent/Mr.Subbarayan Deivasigamani.

4. The Petitioners Banks, as consortium of Banks, had lent money to the 3rd and 4th Respondents, where 5th, 6th and 7th Respondents stood as 'Guarantors'. To secure the said loans, the 3rd Respondent had mortgaged several properties in favour of the consortium of the 1st Petitioner/Andhra Bank.

5. The consortium of secured creditors originally consisted of two Banks, namely Andhra Bank (presently Union Bank of India) and Punjab National Bank. Subsequently, the 1st Petitioner/Andhra Bank merged with the 2nd Petitioner/Punjab National Bank.

6. Thus, the Petitioners Banks became a Secured Creditor under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002.



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7. Facts on record reveal that the Petitioners Banks pursuant to the loan facility availed by the 3rd and 4th Respondents which were secured by the mortgage of subject properties by the 3rd and 4th Respondents, where 5th, 6th and 7th Respondents stood as 'Guarantors' was registered in the CERSAI Portal on 09.09.2011 which is the Central Registry of Securitization Asset Reconstruction and Security Interest of India within the meaning of Section 20(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002. A copy of the CERSAI Report has been filed by the Petitioners before this Court in the Additional Typed Set of Documents on 15.12.2025 during the course of the hearing.

8. Section 20(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 is extracted hereunder:-

> *"20.**Central Registry.—***
>
> *(1) The Central Government may, by notification, set up or cause to be set up from such date as it may specify in such notification, a registry to be known as the Central Registry with its own seal for the purposes of registration of transaction of securitisation and reconstruction of financial assets and creation of security interest under this Act."*



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9. The loan accounts of 3rd and 4th Respondents were later classified as Non-Performing Assets (NPAs) leading to initiation of proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 and the Rules made thereunder.

10. In this background, the Andhra Bank (presently, Union Bank of India) issued a Sale Notice under Section 13(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 in respect of the above-mentioned mortgaged properties which were later auctioned on 23.02.2023, where the 8th Respondent emerged as the successful bidder who offered a sum of Rs.5,06,00,000/-. Pursuant thereto, the 1st Petitioner Bank issued a Sale Certificate dated 23.06.2023 in favour of the 8th Respondent/successful bidder.

11. When the 8th Respondent approached the jurisdictional Sub-Registrar for register of the aforesaid Sale Certificate dated 23.06.2023, it was brought to light of the 8th Respondent that the Income Tax Department had already registered a charge over the said properties as early as on 09.10.2018,



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pursuant to the Assessment Orders passed for the Assessment Years 2012-2013 and 2013-2014 under Schedule II of the Income Tax Act, 1961. Similarly, the Assistant Commissioner of Commercial Tax, the 1st Respondent in W.P.No.1593 of 2024 had attached the subject property on 06.04.2015.

12. The details of the Order of Attachment and the schedule of the property mortgaged with the 1st Petitioner Bank are as follows:-

| **W.P.No. 1587 of 2024** | | | |
|---|---|---|---|
| **Concerned Respondent** | **Order of Attachment** | **Property mortgaged by** | **Schedule** |
| The Commissioner, Income Tax Dept | Doc No.17/2018 dated 09.10.2018 | 3rd Respondent/ M/s Parameshwara Mangalam Steels Private Limited | Survey Nos.273/4A, 320/5A, 322/12, 323/3B, 324/2F, 324/3A, 324/3B, 324/3C |
| **W.P.No. 1593 of 2024** | | | |
| The Assistant Commissioner of Commercial Tax | Na.A.No.557-2015A3 and Na.A.No.556/ 2015/A3 dated 06.04.2015 | 3rd Respondent/M/s Parameshwara Mangalam Steels Private Limited | 273/1, 273/5, 320/2A, 321/1B1, 321/2, 321/3, 321/4, 321/5B, 321/6, 321/7B, 321/B, |



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| | | | |
|---|---|---|---|
| | | | 322/11, 322/11B, 322/11C, 322/2, 322/7A, 322/7B, 322/7C, 323/11, 323/16B, 323/18, 323/1A, 323/2, 323/4A, 323/4B, 323/5A, 323/5B, 323/7A, 323/7B, 323/9, 330/3, 330/5, 331/1A, 331/1B, 331/2, 331/3, 331/4, 332/1 |

13. It is in this background, the Petitioners have approached this Court in these Writ Petitions seeking to ensure that the auction sale conducted on 23.02.2023 and the corresponding Sale Certificate issued on 23.06.2023 are valid and capable of being registered in favour of the 8th Respondent.

14. It is not in dispute that the 3rd respondent, namely, **M/s.Parameswara Mangalam Steels Pvt Ltd.**, was in arrears of income tax for the aforesaid Assessment Years to the tune of Rs.23,55,43,714/- and was an assessee in default.



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| Assessment Year | Amount in Rs. |
|---|---|
| 2012-2013 | Rs.2,57,15,527/- |
| 2013-2014 | Rs.20,98,28,187/- |
| **Total** | **Rs.23,55,43,714/-** |

15. The Income Tax Department has placed strong reliance on Section 26D of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002. It is submitted that the Petitioners Banks being the Secured Creditor had not registered the security interest created in their favour with the Central Registry and therefore, the attachment made under the provisions of the Income Tax Department, 1961 on 09.10.2018 will have precedence over the rights of the Petitioners Banks.

16. It is submitted by the learned Junior Standing Counsel for the 1st Respondent that unless the Security Interest is registered with the Central Registry as defined under Section 2(1)(g) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, there can be no question of priority over the subject property by a secured creditor over all other debts including all revenues,



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taxes, cesses and other dues payable to the Central Government or State Government or any local authority. Therefore, the relief sought for in these Writ Petitions cannot be granted.

17. Furthermore, it is submitted that none of the decisions cited by the learned counsel for the Petitioners dealt with Section 26D and 26E of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002.

18. The learned Junior Standing Counsel for the 1st Respondent further submits that in absence of such registration with the Central Registry as defined under the said Act, the steps taken for the sale of the asset and the opportunity provided even when a charge was created under Schedule II of the Income Tax Act, 1961 on 09.10.2018 would be without jurisdiction.

19. The learned Junior Standing Counsel for the 1st Respondent placed reliance on three decisions of the Hon'ble Bombay High Court which have been affirmed by the Hon'ble Supreme Court of India.  The learned Junior Standing Counsel for the 1st Respondent has also brought to the attention of this Court on the following decisions:-



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1. **The Assistant Commissioner (CT), Anna Salai-III Assessment Circle Vs. the Indian Overseas Bank and other.,** MANU/TN/743/2016.

2. **Indian Overseas Bank Asset Recovery Management Branch, Rep by its Chief Manager Vs. the Assistant Commissioner (Commercial Tax, Cuddalore Town)** dated 27.09.2023 in W.P.Nos.19742 of 2022 etc batch cases.

3. **Sarulatha Manu Mudaliyar Vs. the Tax Recovery Officer, Income Tax Department, Puducherry and others** dated 23.04.2025 in W.P.No.36505 of 2024.

4. **Saraswat Co.Op. Bank Ltd and another Vs. the State of Maharashtra and Ors** dated 05.01.2023 in SLA(c) No. 23729 of 2022.

20. It is further submitted by the learned Junior Standing Counsel for the 1st Respondent that the Petitioner has not complied with the requirements of Section 26-D of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002.

21. By way of rejoinder, the learned counsel for the Petitioners submits that the 1st Petitioner Bank has registered the Security Interest created in



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favour of the 2nd Petitioner Bank by the 3rd and 4th Respondents at the time of availing the loan facilities with Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI).

22. In support of the present Writ Petitions, the learned counsel for the Petitioners relies on the decision of the Hon'ble Division Bench of this Court vide order dated **01.09.2022** in **W.A.No.1512 of 2021 Batch** in **State Bank of India Vs. The Tax Recovery Officer and others.**

**DISCUSSION:-**

23. The point for consideration in these Writ Petitions is whether the Petitioners Banks as Consortium of Banks had registered the charge with the Central Registry (CERSAI) as contemplated under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002.

24. As per Sub-Section (1) of Section 20 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, Central Registry means a Registry set up or cause to be set up by the Central Government by Notification, from such date as it


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may specify in such Notification with its own seal for the purposes of registration of transaction of securitisation and reconstruction of financial assets and creation of security interest under this Act.

25. As per Section 2(1)(g) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, **"Central Registry"** means Registry set up or caused to be set up under Sub-Section (1) of Section 20 of of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002.

26. Section 23 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 mandates filing of transactions of securitization, reconstruction and creation of security interest. Section 23 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 is extracted hereunder:-

***'23. Filing of transactions of securitisation, reconstruction and creation of security interest-***

*(1) The particulars of every transaction of securitisation, asset reconstruction or creation of security interest shall be filed with the Central Registrar in the manner and on payment of such fee*



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*as may be prescribed.*

*[Provided that the Central Government may, by notification, require registration of all transactions of securitisation, or asset reconstruction or creation of security interest which are subsisting on or before the date of establishment of the Central Registry under sub-section (7) of section 20 within such period and on payment of such fees as may be prescribed.]*

*(2) The Central Government may, by notification, require the registration of transactions relating to different types of security interest created on different kinds of property with the Central Registry.*

*(3) The Central Government may, by rules, prescribe forms for registration for different types of security interest under this section and fee to be charged for such registration."*

27. Section 26-B of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 deals with registration by secured creditors and other creditors. Section 26-D and Section 26-E of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 deals with priority to secured creditors.

28. These provisions from Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 are extracted below:-



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| **26-B. Registration by secured creditors and other creditors.-** | **26-D. Right of enforcement of securities.-** | **26-E. Priority to secured creditors.-** |
|---|---|---|
| (1) The Central Government may by notification, extend the provisions of Chapter IV relating to Central Registry to all creditors other than secured creditors as defined in clause (zd) of sub-section (1) of section 2, for creation, modification or satisfaction of any security interest over any property of the borrower for the purpose of securing due repayment of any financial assistance granted by such creditor to the borrower. | Notwithstanding anything contained in any other law for the time being in force, from the date of commencement of the provisions of this Chapter, no secured creditor shall be entitled to exercise the rights of enforcement of securities under Chapter III unless the security interest created in its favour by the borrower has been registered with the Central Registry. | Notwithstanding anything contained in any other law for the time being in force, after the registration of security interest, the debts due to any secured creditor shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority.<br><br>**Explanation.-**<br>For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code. |

29. In these cases, admittedly the mortgage was registered with CERSAI viz., Central Registry of Securitization Asset Reconstruction and Security Interest of India by the Petitioners Banks as early as 09.09.2011. It



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is much prior to Order of Attachment on 06.04.2015 and 09.10.2018 by the 1st Respondent in the respective Writ Petitions.

30. Since the Registration by the Petitioner Banks with Central Registry namely, CERSAI precedes the attachment made on 06.04.2015 and 09.10.2018 by the Respondent, it has to be necessarily held that the Petitioners as the Secured Creditors are entitled to priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or Local Authority in terms of Section 26-E of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002.

31. In view thereof, these Writ Petitions are allowed. No costs. Connected Writ Miscellaneous Petitions are closed.

**16.03.2026**

Neutral Citation: Yes / No

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To:

1.The Commissioner,
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Lalkudi Division,
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**C.SARAVANAN, J.**

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Pre-delivery Common Order in W.P.Nos.1587 and 1593 of 2024

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