IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.08.2026
DELIVERED ON : 20.08.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.Nos.42471 and 42479 of 2025
and WMP Nos.47516, 47517, 47527 and 47529 of 2025

W.P.No.42471 of 2025:
K.Satheesh Babu
S/o.Subbarayudu,
127, Ramachandra Road,
R.S.Puram, Coimbatore-641 002.

Petitioner(s)

Vs

1. The Authorised Officer
Punjab National Bank,
Asset Recovery Management Branch
(Coimbatore), 448-A, Dr.Nanjappa Road,
Coimbatore-641 018.

2. The Office of Tax Recovery Officer
Income Tax Department, TRO Central 2,
Chennai, No.48, Mahatma Gandhi Road,
Chennai-600 034

3. Saravanan.P
S/o.Palaniappan,
105, Ingle Wood Estate, Kammakode,
Yercaud, Salem-636 601.

Respondent(s)

W.P.No.42479 of 2025:

1. Samuel Vijay Jayabal
   S/o.Jayabal,
   No.315D, Karuparayan Koil Street,
   Marudhamalai Road, P.N.Pudur
   Coimbatore - 641 041.

2. Jansi
   W/o.Samuel Vijay
   No.315D, Karuparayan Koil Street,
   Marudhamalai Road, P.N.Pudur
   Coimbatore - 641 041.

Petitioner(s)

Vs

1. The Authorised Officer
   Punjab National Bank,
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   (Coimbatore), 448-A, Dr.Nanjappa Road,
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   Chennai, No.48, Mahatma Gandhi Road,
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   S/o.Palaniappan,
   105, Ingle Wood Estate, Kammakode,
   Yercaud, Salem-636 601.

Respondent(s)

PRAYER in W.P.No.42471 of 2025: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the passing of impugned order dated 30.7.2025 by the 1st respondent and quash the same consequently direct the 1st respondent bank to repay Rs.19,12,500/- within a stipulated period.

PRAYER in W.P.No.42479 of 2025: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the passing of impugned order dated 30.07.2025 by the 1st respondent and quash the same consequently direct the 1st respondent bank to repay Rs.21,62,500/- within a stipulated period.

For Petitioner(s) in both WPs:	Mr.C.Umashankar
For Respondent(s) in both WPs:	Mr.M.L.Ganesh and Mr.S.Arunkumar for R1

COMMON ORDER

THE CHIEF JUSTICE

These two writ petitions raise common questions of fact and law. Hence, they are decided together by this common judgment.

2. The petitioners participated in e-auctions conducted by Punjab National Bank [first respondent in both the writ petitions] under the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002 (SARFAESI Act). They emerged as the highest bidders and deposited 25% of the total bid amounts. Later, they discovered that the Income Tax Department had attached the secured properties. Owing to this undisclosed attachment, the petitioners did not pay the balance 75% sale consideration. Consequently, the respondent bank cancelled the sales and forfeited their 25% deposit amounts. The petitioners have filed these writ petitions to quash the forfeiture orders even dated 30.7.2025 and seeking a direction against the respondent/bank to refund the deposited amount with interest.

3. The brief facts of the cases are as follows:

3.1. In W.P.No.42471 of 2025, the respondent/bank issued an e-auction sale notice on 29.1.2025, to recover loan dues of borrower. The petitioner, K.Satheesh Babu, submitted his bid in the auction held on 19.3.2025. His bid of Rs.76,50,000/- was accepted as the highest bid. He deposited Rs.19,12,500/-, representing 25% of the total bid amount.

3.2. Likewise, in W.P.No.42479 of 2025, the petitioners participated in the e-auction for another item of secured property. They were declared the successful bidders and they also deposited 25% of the total bid amount.

3.3. Upon applying for Encumbrance Certificates to verify the property records, the petitioners discovered a subsisting attachment registered by the Income Tax Department (TRO Central 2, Chennai).

3.4. The petitioners communicated with the respondent/bank regarding the tax attachment. However, the respondent/bank insisted on payment of the balance 75% amount. Since the attachment encumbrance was not cleared, the petitioners did not pay the remaining balance within the stipulated time.

3.5. On 30.7.2025, the respondent/bank issued the impugned orders forfeiting the 25% deposit amounts and cancelling the e-auctions invoking the provisions of the Security Interest (Enforcement) Rules, 2002.

4.1. Learned counsel for the petitioners submitted that Rule 8(7)(a) of the Security Interest (Enforcement) Rules, 2002 makes it mandatory for the bank to disclose all known encumbrances in the sale notice. The bank completely suppressed the Income Tax Department's attachment order in the e-auction notice.

4.2. He further submitted that the petitioners cannot be forced to pay the full price when the property carries an undisclosed government attachment. He added that failure to disclose a material encumbrance in the auction notices invalidates the sale process entirely and, therefore, the respondent/bank has no legal right to forfeit the earnest money deposit.

5.1. Per contra, learned counsel appearing for the respondent/ bank contended that the writ petitions are not maintainable and that the petitioners have an effective alternative remedy before the Debts Recovery Tribunal (DRT) under Section 17 of the SARFAESI Act to challenge the forfeiture orders.

5.2. He further submitted that the communications exchanged between the parties show that the petitioners primarily sought extensions of time to deposit the balance 75% payment. He added that the respondent/bank had clarified to the petitioners that the Income Tax attachment entry would not affect the bank's title transfer.

5.3. Learned counsel for the respondent/bank fairly conceded that the Income Tax attachment was not explicitly disclosed in the e-auction sale notice and that the sale was conducted strictly on an "*as is where is*" and "*as is what is*" basis. He hastened to add that the secured creditor has statutory priority over Crown debts. Therefore, the Income Tax Department's attachment has no priority over the bank's prior mortgage. Thus, Rule 9(5) of the Security Interest (Enforcement) Rules, 2002 was correctly invoked to forfeit the amounts deposited, upon default.

6. The following issues arise for consideration:

(i) Whether the writ petitions are maintainable despite the availability of an alternative remedy before the DRT?

(ii) Whether the respondent/bank has priority over the attachment of the Income Tax Department?

(iii) Whether the non-disclosure of the Income Tax attachment in the sale notice vitiates the auction and invalidates the forfeiture of the petitioners' deposit?

Issue 1: Maintainability of Writ Petitions

7. The respondent/bank contended that the petitioners ought to have approached the DRT. It is trite that alternative remedy is a rule of discretion, not an absolute bar to writ jurisdiction under Article 226 of the Constitution of the India. Since the core issue raised pertains to non-compliance with the procedure contemplated under the Security Interest (Enforcement) Rules, 2002, we find the writ petitions maintainable.

Issue 2: Priority of Charge of Secured Creditor

8. On the question of priority of claims, the law is firmly established. In *Dena Bank v. Bhikhabhai Prabhudas Parekh & Co.*[1], the Supreme Court held that statutory priority of State debts applies only to unsecured debts, and a prior mortgage created in favour of a secured creditor takes precedence over Crown debts.

9. This principle was reaffirmed in *Connectwell Industries Private Limited v. Union of India*[2], wherein the Supreme Court ruled that an attachment order issued by the Income Tax Department cannot override or defeat the prior charge of a secured creditor under the SARFAESI Act.

10. Therefore, the respondent bank is correct in asserting that its mortgage charge has priority over the Income Tax Department's attachment.

1 *(2000) 5 SCC 694*
2 *(2020) 5 SCC 373*

Issue 3: Effect of Non-Disclosure of Encumbrance in Sale Notice

11. Although the respondent/bank holds a priority charge, it cannot escape its duty under the law regarding auction transparency.

12. Rule 8(7)(a) of the Security Interest (Enforcement) Rules, 2002 mandates that every e-auction notice must specify any encumbrance to which the property is subject, to the best of the authorized officer's knowledge. For ease of reference, the said provision is reproduced hereunder:

> *"8. Sale of immovable secured assets.-*
> *(1) to (6) ...*
> *(7) Every notice of sale shall be affixed on the conspicuous part of the immovable property and the authorised officer shall upload the detailed terms and conditions of the sale, on the web-site of the secured creditor, which shall include.-*
> ***(a) the description of the immovable property to be sold, including the details of the encumbrances known to the secured creditor****;*

> *(b) the secured debt for recovery of which the property is to be sold;*
>
> *(c) reserve price of the immovable secured assets below which the property may not be sold;*
>
> *(d) time and place of public auction or the time after which sale by any other mode shall be completed;*
>
> *(e) deposit of earnest money as may be stipulated by the secured creditor;*
>
> *(f) **any other terms and conditions, which the authorized officer considers it necessary for a purchaser to know the nature and value of the property**."*
>
> *[emphasis supplied]*

13. This issue is directly covered by a decision of the Division Bench of this Court in *Jai Logistics v. The Authorized Officer, Syndicate Bank*[3]. In the said decision, while interpreting the Rule as it then existed, it was held that non-disclosure of encumbrances in the sale notice vitiates the auction process itself. As a result, the bank cannot forfeit the earnest money deposited by an auction purchaser who hesitates to pay the balance due to such undisclosed encumbrances. The relevant portion of the said decision reads thus:

3 *(2010) 4 CTC 627*

"5. We have considered the submissions. Of course, in the aforesaid judgment, the Supreme Court, while considering a sale by the Official Liquidator, has held that it is the duty of the intending purchaser to satisfy himself as to the encumbrance before participating in the bid. Having participated in the bid, the intending purchaser cannot later on turn around and question the Official Liquidator on the ground that the encumbrance was not notified. In that case, the provisions of the Rules as applicable in the present case are not applicable to the Official Liquidator. But in the case on hand, once possession is taken over under Section 13(4) or under Section 14 of the SARFAESI Act, whenever the secured creditor contemplates a sale of immovable property, they will have to follow Rule 8 of the Security Interest (Enforcement) Rules, 2002. ***Rule 8(6)(f) mandates the secured creditors to set out in the terms of sale notice any other thing which the authorised officer considers it material for a purchaser to know in order to judge the nature and value of the property. A reading of the said Rule, in our opinion, would also include the encumbrance relating to the property. We are inclined to read the rule in that way keeping in mind the interest***

of the intending purchaser to be put on notice as to the encumbrance, as otherwise he/she will be purchasing the property and simultaneously buying the litigation as well and an intending purchaser may not bid in the event he/she came to know of any encumbrance over the property. That is why the Rule specifically contemplates a provision for the Authorised Officer, while notifying the sale, to specifically state as to the encumbrance. *It will be a different issue in the event the auction notice indicated that it is the duty of the intending purchaser to verify not only the encumbrance by way of alienation of the property, but also the other statutory liabilities and in that case, the intending purchaser cannot later on turn around and seek for either the refund of the earnest money deposited or insist the Bank to clear the encumbrance. In the absence of such indication in the sale notice, in our considered view, the Respondent-Bank would not be justified in compelling a purchaser to go ahead with the sale by depositing the balance sale consideration together with the encumbrance."*

[emphasis supplied]

14. In the present case, the respondent/bank fairly admitted that the Income Tax attachment was not disclosed in the sale notices. An auction purchaser is entitled to receive a clean and unencumbered title. An auction purchaser cannot be forced to buy property burdened with undisclosed litigation or tax attachments. As the auction notice failed to disclose a material encumbrance, the forfeiture orders dated 30.7.2025, in our considered opinion, are legally unsustainable and must be set aside.

15. Qua the refund of the deposited amount and interest, the Supreme Court in *Delhi Development Authority v. Corporation Bank and Others*[4] held that when an e-auction sale is set aside or cancelled due to procedural flaws, the auction purchaser is entitled to a full refund of the deposited money along with interest at 9% per annum from the date of deposit until repayment. Following this precedent, the petitioners are entitled to receive a complete refund of amounts deposited by them with 9% interest per annum.

4 *2025 SCC OnLine SC 2071*

16. In light of the above discussion, the writ petitions are allowed on the following terms:

(a) The impugned forfeiture orders dated 30.7.2025, issued by the respondent/bank are hereby quashed.

(b) The respondent/bank is directed to refund the entire amount deposited to the petitioners with interest at the rate of 9% per annum from the date of deposit until full repayment, in line with the decision of the Supreme Court in *Delhi Development Authority* (supra), within four weeks from the date of receipt of a copy of this order.

There shall be no order as to costs. WMP No.47527 of 2025 filed by the petitioners in W.P.No.42479 of 2025 to permit them to file a single writ petition is allowed, in as much as they have paid separate court fee. All other interim applications stand closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
20.08.2026

Index : Yes/No
Neutral Citation : Yes/No
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