

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE AT TIRUVALLUR

Present: Tmt.S. MEENAKSHI B.A.B.L.,(Hons.)
Chief Judicial Magistrate,
Tiruvallur.

Dated this, Tuesday, the 22nd day of April 2025

CRL.MP.No.1308/2025
(CNR No.TNTR1B-020200-2024)

M/s. HDFC Bank Ltd.,
(Erstwhile HDFC Ltd)
Anna Salai, Chennai 600 002.
Represented by its Authorized Officer,
Mr.S. Gajendran

...Petitioner..

/Vs/

Mathialagan Sagadevan

...Respondent..

This petition coming on this day for hearing before me in the presence of Mr.S.P. Nagalakshmanan, advocate, for the petitioner upon perusing the records, on hearing on petitioner side and having stood over for consideration, this Court passed the following:-

ORDER

The petitioner bank filed this application u/s.14(1) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), seeking the assistance of this court to take physical possession of the petition mentioned property.

2. As per the case of the petitioner bank, the borrower in this case owe to pay the total sum of Rs.17,92,667/- as the said debt was not paid by the borrowers the petitioner bank initiated proceedings u/s.13(2) of SARFAESI Act by issuing demand

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notice and then sale notice by issuing demand notice, despite the receipt of demand notice, as the borrower failed to come forward to discharge the debt, the property which being given Collateral Security, are required to be taken possession to proceed and to realize the above said debt for that reason the petitioner bank filed this application seeking the assistance of this court.

3. On perusal of records it is found that the petition mentioned property was being given as collateral security and it can be taken possession in the event the borrower failed to pay the loan amount in pursuance to the demand notice of the petitioner bank. It is appears from the records that the petitioner bank after complying the requirements as enumerated in the above Act, with no other option but to realize the money filed in this application, and without allowing this application it is not possible for the petitioner bank to recover the amount which stands due. It is also enquired with the petitioner bank whether stay if any is pending either by the borrower or any other persons with regard to petition mentioned property, for which it is stated that there is no appeal pending. As no appeal is pending, there is no bar for taking possession of the petition mentioned property, as per section 14 of SARFAESI Act as and when the application is filed by the bankers, then it is the duty of this court to provide assistance for taking possession of petition mentioned property. The assistance can be provided by way of appointing a court commissioner on entrusting him a warrant to take the possession of the petition mentioned property in peaceful manner by availing the necessary assistance from the state holders, and then entrust the possession to the

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authorized officer of the petitioner bank.

4. In the result, this application is allowed, Advocate **Mr.S. Sundarkumar (E.N.Ms.No.550/2013, Mobile No.: 8778697399)** is appointed as Advocate Commissioner

1. To inspect the petition schedule mentioned property;
2. Take inventories;
3. Take physical possession of the petition schedule mentioned property and immediately hand over the same to the petitioner/secured creditor.
4. If necessary break open the premises and take stocks of inventory and then file report thereon and if necessary, take assistance from **T-6, Avadi Police Station** and Revenue Officials in executing the warrant. The said SHO and the Revenue Officials are directed to give assistance to the advocate commissioner and as well as the petitioner at their request to complete the work.

A sum of **Rs.20,000/-** is fixed as remuneration for the said Advocate Commissioner. *“The petitioner is directed to pay remuneration directly to the Advocate Commissioner. The Advocate Commissioner is entitled to get remuneration directly from the petitioner after possession is taken or this matter is settled between the parties or the petition is withdrawn by the petitioner. The petitioner shall not refuse to pay the remuneration to the Advocate Commissioner at any cost like settled out of court or withdrawn”.* The Advocate Commissioner is directed to file report with original warrant and with a memo regarding receipt of remuneration, after taken

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possession. Further the Advocate Commissioner shall file his report with original warrant if the matter is settled between the parties or withdrawn by the petitioner. Both the petitioner and the court commissioner shall make an endeavor to execute the warrant and file a compliance report within six months from the date of this order, and the warrant is valid upto six months from the date of order, accordingly this petition is allowed. The petitioner counsel is hereby directed to furnish copy of petition to the Advocate Commissioner.

Dictated to the Steno-Typist, directly to the computer typed by her, corrected in the computer itself, and pronounced by me in the open court on this the 22nd day of April 2025.

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Petitioner side witness :

PW.1- Mr. S. Gajendran - Authorized Officer.

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