IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, SALEM.

Present:- Tmt.K. Krishna Priya, M.L.,
Chief Judicial Magistrate, Salem.

Friday the 14th day of August - 2026

CMP. No. 2145 of 2025

(CNR.No.TNSA 04-013340-2024)

ICICI Home Finance co Ltd,
Rep by its Authorized Officer,
Mr.M.Venkatesan,
Branch office located at
Shop No.102, 103 and 115, 1st floor,
D.No.483, Asoka Plaza,
Dr. Nanjappa Road,
Coimbatore – 641 018. .....Petitioner.

//VS//

1.Madhaiyan S/o.Nalla Gounder,
D.No.2/87, A5 Thiru Nagar,
Hospital colony, Mettur Dam 1, Salem- 636451

Also at:
PS Pole, 9 Mtr Yard,
Hospital Colony, West main road,
Salem – 636451.

Also at:
Old D.No. 2/87 A5 New D.No.50, Thiru nagar,
Hospital colony, Mettur Dam 1, Salem – 636401.
2.Chinapappa W/o. Nalla Gounder,
D.No.2/87, A5 New D.No.50,
Thiru nagar, Hospital colony,
Mettur Dam 1, Salem- 636401.

Also at:
No.2/87 A5 Thiru nagar,
Hospital colony,
Mettur Dam 1, Salem – 636451. ….Respondents.

This petition coming up for final hearing before this Court on **14.08.2026** in the presence of **Mr.M.Saravanan** Advocate for the petitioner and upon hearing petitioner’s side arguments, perusing affidavit, petition and other relevant documents, and having stood over for consideration till this day, this court delivered for following:

ORDER

1.This petition has been filed by the petitioner under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), seeking assistance of this Court for taking physical possession of the secured assets.

2.The case of the petitioner is that ICICI Home Finance co Ltd, Branch at Coimbatore had extended the following financial assistance to the respondents to the tune of Rs.13,50,000/- Vide Account No.LHSAL00001458779 and 2nd Loan Rs.55,755/- Vide Loan Account No.LHSAL00001458778. The respondents executed the necessary loan documents and security agreements, thereby creating security interest in respect of the immovable properties described in the petition, situated within the limits of Mettur Taluk, Salem District.

3.Since the respondents defaulted in repayment of the aforesaid credit facilities, the petitioner classified the loan account as NPA on 03.09.2023. Thereafter, proceedings under the SARFAESI Act were initiated by issuing notice under Section 13(2) on 15.09.2023. The respondents received the said notice. Despite issuance of the statutory demand notice, the respondent had neither replied nor made any repayment. The petitioner then took symbolic possession of the schedule property on 17.01.2024 and issued a possession notice to the respondents, which was also published in two leading newspapers on 28.12.2024. As on 03.07.2025 a total sum of Rs.19,36,706/- (18,55,856 + 80,850.70) remains due and payable. The petitioner submits that physical possession of the property could not be taken as the respondents resisted, and unless such possession is handed over, the petitioner will be put to great loss. Hence, the present petition.

4.The question that arises for consideration is whether the petition filed by the petitioner under Section 14 of the SARFAESI Act deserves to be allowed?

5.The petitioner has produced copies of the loan documents, title deeds, demand notice, postal acknowledgments, possession notice, and newspaper publications.

6.The property lies within the jurisdiction of this court.

7.Service of S.13(2) notice has been effected and the petition has been filed after expiry of 60 days from the date of receipt of notice issued under Section 13(2) of the Act.

8.The Petitioner has filed supporting affidavit along with petition and is satisfactory.

9.The respondent is not entitled to any further notice under the Act from this Court.

10.On satisfaction of the above, this Court is of the view that there exists a compelling situation for the petitioner to realise the loan amount by taking possession of the secured assets. For such purpose, it is just and necessary to render assistance to the secured creditor by appointing a Commissioner for identification of the secured assets and for taking possession thereof, with liberty to seek police assistance in case of resistance.

11.The Hon'ble High Court of Madras in its order in **Vijayanand Srinivasan Vs Punjab National Bank, Dated: 05.06.2026** has issued the following directions in Para 10:-

> *" In view of the foregoing discussion and the settled legal position as enunciated by the Supreme Court, we issue the following directions applicable*

to all Chief Metropolitan Magistrate/ Judicial Magistrates/District Magistrates exercising powers under Section 14 of the SARFAESI Act across the State of Tamil Nadu:

(i) ………..

(ii) Upon registration, the Designated Authority shall verify only the following two aspects:

(a) whether the secured assets fall within its territorial jurisdiction;

(b) whether a notice under Section 13(2) of the SARFAESI Act has been duly served upon the borrower;

(c) whether the application is accompanied by the affidavit as mandated under the first proviso to Section 14(1) of the SARFAESI Act, duly affirmed by the authorized officer of the secured creditor, affirming compliance of clauses (i) to (ix) thereof; and

(d) The Designated Authority shall also ascertain whether the case of the secured creditor falls under any of the exceptions provided under Section 31 of the SARFAESI Act.

(iii) The nature of the inquiry under Section 14 of the SARFAESI Act is ministerial and not adjudicatory. The Designated Authority is not required and is indeed prohibited from adjudicating upon any dispute between the secured creditor and the borrower, or between the secured creditor and any third party (including any person in possession of the secured assets), in an application under Section 14 of the SARFAESI Act. All such disputed questions of law or fact are exclusively within the jurisdiction of the Debts Recovery Tribunal under Section 17 of the SARFAESI Act.

(iv) The Designated Authority is not required to issue notice to the borrower, mortgagor, guarantor, or any third party before passing an order under Section 14(1) of the SARFAESI Act. The power under Section 14(2) is an enabling provision and the Designated Authority may, if necessary, use force for securing compliance.

(v) Upon being satisfied about the contents of the affidavit and the existence of its territorial jurisdiction, the Designated Authority shall pass a suitable order …………..

(vi) …………..

(vii) ………….

(viii) Any person aggrieved by an order passed under Section 14 or by any step taken under Section 13(4) of the SARFAESI Act, including a tenant or occupant, has a statutory remedy of appeal/ application under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal having jurisdiction.

(ix)…………

(x)………….

(xi)………….”

12.Considering all aspects, this Court is inclined to allow the petition by appointing an Advocate Commissioner to take physical possession of the secured asset.

In the result, this application is allowed **Mr.M.K.Arunan, Advocate (Enrollment No.2562/2024, (6383636665)** is appointed as Advocate Commissioner, with the following directions:

I.To prepare an inventory of the secured assets; take photographs.

ii.To take physical possession of the property and hand it over immediately to the petitioner/secured creditor;

iii.If necessary, break open the lock if any and to seek the assistance of Police and Revenue Officials in executing this warrant.

iv.The remuneration of the Advocate Commissioner is fixed at Rs.20,000/-. Out of which Rs.10,000/- to be paid by the petitioner directly to the Advocate Commissioner, on intimation to this court within 7 days of this order and the remaining Rs.10,000/- shall be paid to the Advocate Commissioner at the time of taking Possession of property.

13.Any person aggrieved by this order or by any step taken under Section 13(4) of the SARFAESI Act, including a tenant or occupant, has a statutory remedy of appeal/ application under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal having jurisdiction.

This order dictated directly to the Typist, typed by him, corrected and pronounced by me in the open court, on this the 14th day of August 2026.

Sd/K.Krishna Priya,
Chief Judicial Magistrate,
Salem.