

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE AT TIRUVALLUR

Present: Thiru.K. MOHAN B.B.A.,L.L.M.,
Chief Judicial Magistrate,
Tiruvallur.

Dated this, Friday, the 16th day of August 2024
CRL.MP.No.5775/2023
(CNR No.TNTRIB-011503-2022)

M/s. Equitas Small Finance Bank Limited.,
Spencer Plaza, No.769,
4th Floor, Phase-2,
Anna Salai, Chennai-600 002
Represented by its Authorized Officer,
Mr.J. Prakash

...Petitioner..

/Vs/

1. Sudha W/o. Mahalingam
2. Mahalingam S/o. Krishnan

...Respondents...

This petition coming on this day for hearing before me in the presence of M/s.J. Arulmozhi and J. Vennila advocates 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.

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2. As per the case of the petitioner bank, the borrower in this case owe to pay the sum of Rs.8,38,742.99/- 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 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 any appeal 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 authorized officer of the petitioner bank.

4. In the result, this petition is allowed. Mr.C. Gopinath Advocate, Enrollment No.M.S.3197/2007 (mobile No.:8248186528), is hereby appointed as a court commissioner with the warrant of this court to take the peaceful possession of the petition mentioned property and then entrust the same to the authorized possession of the petitioner bank in accordance with law, if necessary break open the premises and take stocks of inventory and then file report thereon. The Court commissioner hereby empower to obtain assistance of police or any other Revenue officers by producing this warrant to carryout this warrant. The petitioner bank is hereby directed to pay a sum of Rs.20,000/-, as fee to the court commissioner directly on execution of the warrant. 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, accordingly this petition is allowed.

Dictated to the Steno-Typist, transcribed by her, corrected in the computer itself, and pronounced by me in the open court on this the 16th day of August 2024.

Date : 16.08.2024

Chief Judicial Magistrate
Tiruvallur