

MHNS0300003
72025**CRIMINAL MISC. APPLICATION NO.29 OF 2025****ORDER BELOW EXHIBIT NO. 01**

M/s. Chola mandalam Investment & Finance
Company Ltd.
V/s.
Deepak Surajprasad Gupta and Ors.

1. Read application of applicant. Perused documents on record. Heard Learned Advocate of applicant.
2. This is the application filed by applicant to direct the Court Commissioner afresh to take possession of secured asset as per order passed by this Court in Criminal M. A. No.751/2023 dated 04/08/2023 and restore the possession illegally grabbed by respondents from applicant of secured asset.
3. It is the case of applicant that applicant had filed application for the relief as per section 14 of the SARFAESI Act before this Court bearing Criminal M. A. No. 751/2023 which is allowed by this Court on 04/08/2023. Thereafter, the Court Commissioner was appointed in that case and said Court Commissioner has delivered possession of secured asset to applicant and complied said order on 05/09/2024. Thereafter, the applicant put lock upon secured asset and took it in its physical custody. Then on 08/09/2024, during auction process, applicant revealed that respondents have broken lock put by the applicant over secured asset and trespassed over it. So applicant lodged F.I.R about said incident with Yeola City Police Station bearing F.I.R No. 0327/2024 dated 10/09/2024 against respondents and others. So it is necessary again to direct Court Commissioner to deliver vacant and peaceful possession of secured asset to the applicant and restore the possession of applicant over it as per section 14 of the SARFAESI Act. So applicant has prayed to grant the application.

4. The applicant has produced copy of final order passed by this Court in Criminal M. A No. 751/2023 dated 04/08/2023 at Exh. 3 at Serial No. 3. It shows that the applicant had filed said application for taking possession of secured assets from respondents as per section 14 of the SARFAESI Act and Court Commissioner was appointed in it by allowing said application to take possession of secured asset and deliver it to applicant.

5. The documents produced at Exh. 3 at Serial No. 4 shows that Court Commissioner took possession of secured asset in that case as per Order of this Court and handed over it to the applicant. The document at Exh. 3 at Serial No. 5 is copy of F.I.R lodged by applicant against respondents and others at Yeola Police station within the jurisdiction of which secured asset is situated. Said F.I.R shows that respondents have trespassed in the secured asset of which possession was taken by applicant after the completion of work of Court Commissioner in Criminal M. A. No. 751/2023.

6. As this Court has already allowed the application of applicant as per section 14 of the SARFAESI Act in Criminal M. A. No. 751/2023 and respondents have trespassed upon the secured asset which was handed over to applicant as per order of this Court, it is proper to restore the possession of secured asset to applicant by appointing Court Commissioner in this case. Hence, application deserves to be allowed. Hence, I pass following order;

ORDER

I) Application is allowed.

II) The Senior Most Assistant Superintendent attached to the Court of Judicial Magistrate First Class, Yeola is appointed as a court commissioner to again take possession of the secured asset i.e. **All that**

piece and parcel of property bearing CTS No. 2294 total area Adm. 121.09 sq. meters along with construction thereon within the limits of village Yeola, Tal. Yeola, Dist. Nashik and restore said possession of secured asset to the applicant as mentioned in application and affidavit, by taking such steps and using such force including breaking open the lock thereof or taking assistance of Police of Yeola Police Station, if required, at the expenses of the applicant and shall deliver possession thereof along with documents/articles, if any, found therein to the authorized officer of the applicant after preparing panchnama and taking inventory of the secured asset.

III) Issue writ of commission accordingly on payment of P.F. and Rs. 5,000/- towards the commission fees within three months from today, which shall be credited to the government.

Date : 04.02.2025

(S. G. Baokar)
Chief Judicial Magistrate, Nashik.
MH00093