IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE AT TIRUNELVELI

Present : Tmt.V.Deepa, M.L.,
Chief Judicial Magistrate, Tirunelveli
Wednesday, the 19th day of August 2026
Crl.M.P.No.294 of 2026
(C.N.R.No.TNAL04-019910-2025)

M/s. IDFC First Bank Limited
(Formerly Capital First Ltd., &
Amalgamated with IDFC Bank Limited)
KRM Towers, 7th Floor,
No.1, Harrington Road,
Chetpet,
Chennai-600031.
Represented by its Authorized Officer,
Mr.Josephrahul A (Regional Legal Manager)
S/o. SZ Amala Arokia Nathan
Under SARFAESI Act. ...Petitioner

// Vs //

1. Mr.RAJA,
   S/o.Mr.Pitchamani,
   No.93, Perumal Sannathi Street,
   Gopalasamudram,
   Tirunelveli Tamilnadu – 627451.

2. Mrs.UMA.S,
   D/o.Mr.Shanmugasundaram,
   No.93, Perumal Sannathi Street,
   Gopalasamudram,
   Tirunelveli Tamilnadu – 627451. … Respondents

This petition was taken on file on 24.07.2026 and coming for hearing before me, in the presence of Mr.G.Selvakumar, Advocate for petitioner and upon hearing petitioner side arguments, perusing affidavit, petition and other relevant documents, and having stood over for consideration till date, this court delivered the following,

ORDER

1) This petition was filed by the petitioner seeking for appointment of Advocate Commissioner, to take physical possession of the Secured asset mentioned in the schedule under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2) Case of the petitioner in brief :-

The petitioner, M/s. IDFC First Bank Limited, formerly known as Capital First Limited and amalgamated with IDFC Bank Limited, is a secured creditor represented by its Authorised Officer. The respondents are the borrower and co-borrower who had jointly availed loan facilities from the petitioner bank. The petitioner bank had sanctioned a sum of Rs.6,50,000/- under Loan Account No.81848038 and another sum of Rs.3,00,000/- under Loan Account No.122404008, totalling Rs.9,50,000/-. The 2nd respondent, being the absolute owner of the schedule mentioned property, had created an equitable mortgage by deposit of title deeds in favour of the petitioner bank as security for repayment of the loan liability. The respondents were irregular in repayment of the loan instalments and committed default. Consequently, the loan account was classified as a Non-Performing Asset (NPA) on 05.03.2025 in accordance with the applicable guidelines. Thereafter, the petitioner issued a statutory demand notice dated 29.03.2025 under Section 13(2) of the SARFAESI Act, calling upon the respondents to pay a sum of Rs.9,27,089.77/- together with contractual interest within the statutory period of 60 days. Despite service/publication of the demand notice, the respondents failed to discharge the outstanding liability. Hence, the petitioner initiated measures under Section 13(4) of the SARFAESI Act and issued a possession notice dated 16.09.2025, which was affixed on the secured asset and also published in The New Indian Express and Dinamani on 18.09.2025. As per the petitioner, the outstanding amount as on 26.02.2025 was Rs.6,28,521.49/- in Loan Account No.81848038 and Rs.2,98,568.28/- in Loan Account

No.122404008, totalling Rs.9,27,089.77/-. The petitioner has further stated that no proceedings relating to the said loan account or secured asset are pending before the DRT or any other forum and that no tenant is residing in the schedule property. The petitioner apprehends resistance or obstruction from the respondents while taking physical possession of the secured asset. Therefore, the petitioner has approached this Hon'ble Court under Section 14 of the SARFAESI Act seeking assistance for taking physical possession of the schedule mentioned secured property, including appointment of an Advocate Commissioner and necessary police assistance. Hence, the petitioner has prayed for appointment of an Advocate Commissioner to take physical possession of the schedule mentioned property from the respondents, with necessary authority to break open the premises, if required, and to hand over possession of the secured asset to the petitioner bank, with necessary police assistance.

3) Now the Point for consideration is whether the petition filed by the petitioner under Section 14(1)and (2) of the SARFAESI Act 2002 is to be allowed or not ?

4) Heard, the counsel for the petitioner.

5) The Petitioner appeared before this Court and produced the original documents. Perused the documents filed along with this petition.

6) From perusal of the loan documents, title deed, Mortgage by Deposit title deed, Demand notice, possession notice, Paper Publication, Statement of Accounts, it could be seen that the schedule mentioned property has been mortgaged towards the loan and it has been created as a Secured Asset and it is also evident that the Loan amount has not been repaid by the respondents. This petition has been filed, after the expiry of 60 days from the date of receipt of notice issued under Sec.13(2) of SARFAESI Act, 2002 by the respondents and so, the respondents are not entitled to any further notice as per the Act from this Court.

7) The petition mentioned property is situated at Perumal Sannathi Street, Gopalasamudram Village, Gopalasamudram Twon Panchayat Ward 1, Cheranmahadevi joint II Sub Registrar limit, Cheranmahadevi Registration District, within the jurisdiction of this Court. The Memorandum of deposit of title deeds and the encumbrance certificate was also produced by the petitioner to show that the schedule mentioned property was hypothecated in favour of the petitioner/secured creditor. Necessary affidavit affirming that the provisions of the SARFAESI Act 2002 and Rules have been complied with has also been filed by the Authorized Officer.

8) The records produced before this Court, confirms the contents of the affidavit and they clearly show that the debts has not been repaid. As the debts have become a Non Performing Assets, the petitioner is entitled to take possession of the secured asset and the interest of justice, would be best served by assisting the secured creditor in taking possession of the secured assets. An advocate commissioner shall be appointed by this court for identifying the secured asset and taking physical possession of the same. If there is any resistance, it shall be open for the advocate commissioner to seek police aid and also take all effective steps to take possession of the secured assets.

9) Further our Hon'ble Apex Court in its Judgment reported in ***2020 – 3 – L.W. - 498 : The Authorised Officer, Indian Bank Vs.D.Visalakshi and another(Civil Appeal No.6295 of 2015) dated:23.09.2019,*** wherein it has been held as follows:

> *"22. .... Thus it is only a procedural step without any adjudication of any dispute whatsoever. The action is therefore only an administrative order made for taking possession of the secured assets if all other conditions are fulfilled. Having already noted that the powers exercised by the CMM and DM in terms of Section 14 of the 2002 Act are synonymous to each other and that they are not adjudicatory in nature..."*
>
> *"25. ... It did notice that the authority referred to in section 14 of the 2002 Act has no power to adjudicate upon any rights of the parties but can only render assistance to the secured creditor to recover*

possessions ... "

10) Apart from the above decision, the power of this court as designated court under section 14 of SARFAESI Act 2002 is clearly explained by the latest decision of our Hon'ble Apex Court in **Balkrishna Rama Tarle Dead Through Lrs vs Phoenix ARC Private Limited on 26 September, 2022,** which is as follows :-

> *10)... "9. Thus, in view of the scheme of the SARFAESI Act, more particularly, Section 14 of the SARFAESI Act and the nature of the powers to be exercised by learned Chief Metropolitan Magistrate/learned District Magistrate, the High Court in the impugned judgment and order has rightly observed and held that the power vested in the learned Chief Metropolitan Magistrate/learned District Magistrate is not by way of persona designata." Thus, the powers exercisable by CMM/DM under Section 14 of the SARFAESI Act are ministerial step and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. In that view of the matter once all the requirements under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/or with the help of an advocate appointed as Advocate Commissioner. At that stage, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets and the aggrieved party to be relegated to raise objections in the proceedings*

under Section 17 of the SARFAESI Act, before Debts Recovery Tribunal. Under the circumstances in the present case no error has been committed by the High Court in setting aside the order dated 27.08.2021 passed by the designated authority keeping the application pending till the secured creditor initiates the legal proceedings for eviction of the tenant cannot get the possession in an application under Section 14 of the SARFAESI Act. The High Court has rightly directed the designated authority to proceed further with the application under Section 14 of the SARFAESI Act, and to dispose of the same in accordance with the provisions of Section 14 of the SARFAESI Act".

11) Hence, applying the principles laid down in the aforesaid judgments to the case on hand, and on perusal of the documents produced by the petitioner, it is clear that the requirements under the various provisions of the SARFAESI Act have been complied with and the petitioner is to be assisted in taking physical possession of the secured asset. In the light of the aforesaid discussions, this court is of the view that an appropriate direction to prepare inventory and to take physical possession of the secured asset is liable to be passed in favour of the petitioner and as such, this court is inclined to allow this application.

In the result, this application is allowed, Advocate Mr.T.RANJITH (E.N.Ms.No.1907/2023, Mobile No.8778242174) is appointed as Advocate Commissioner.

1. **To inspect the petition schedule mentioned property.**
2. **Take inventories.**
3. **If necessary to break-open the schedule property for the purpose of taking inventory of the articles therein.**
4. **Take physical possession of the petition schedule mentioned property**

and immediately hand over the same to the petitioner/secured creditor.

5. **If necessary, take assistance from Police Station and Revenue Officials in executing the warrant.**

A sum of Rs.30,000/- is fixed as remuneration for the said Advocate Commissioner. The above said amount shall be paid to the advocate commissioner directly by the petitioner. For filing report by 18.09.2026.

This order was dictated by me directly to the Steno Typist, typed by him on the computer, corrected, and pronounced by me in the open Court on this the 19th day of August 2026.

V DEEPA Digitally signed by V DEEPA Date: 2026.08.19 18:58:15 +0530

Chief Judicial Magistrate,
Tirunelveli.

Petitioner side witness: - NIL -
Petitioner side Documents: - NIL -

V DEEPA Digitally signed by V DEEPA Date: 2026.08.19 18:58:20 +0530

Chief Judicial Magistrate,
Tirunelveli.

CJM Court, Tirunelveli

Cr.M.P.No.294/2026

Dated :- 19.08.2026

Order