

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR

PRESENT : Thiru.M.Veeranan, M.A.,LLM.,

Chief Judicial Magistrate,

Virudhunagar District at Srivilliputhur

Thursday this the 4th day of September 2025

CrI.M.P.No.1085/2025

(CNR No.TNVR01-001513-2025)

M/s.Cholamandalam Investment & Company Limited.,

Having Corporate Office,

Dare House.2, NSC Bose Road,

Parrys, Chennai - 600 001

Having Branch office at

No.2/3, G.V. Towers,

Melakkal Main Road,

Madurai - 625 016.

Represented by its authorised officer

P.Velmurugan

... Petitioner

/ Vs /

1) C. Muthukumaran

2) C. Parameswari

3) K. Vignesh

... Respondents

This petition came for final hearing before this Court on 21.08.2025 in the presence of Mr.T.Suriya Ragupathy, 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 the following :-

ORDER

1) This Petition has been filed by the petitioner seeking assistance under Section 14(1) of the Securitization And Reconstruction of Financial Assets And Enforcement of Security Interest Act 2002 (hereinafter referred to as SARFAESI Act).

2) The Case of the petitioner bank is that the bank had sanctioned a two loans of Rs.24,40,000/- (Rs.6,00,000/-+ Rs.18,40,000/-) to the 1st and 2nd respondents and the 2nd respondent stood as Co-borrower and the 3rd respondent stood as Guarantor. Due to the default of the respondents in repaying the loan amount, it was declared as Non Performing Asset (NPA) on 16.01.2025. In order to realize the loan amount together with interest, the petitioner bank issued demand notice to the respondents under section 13(2) of the SARFAESI Act on 18.01.2025 calling upon the respondents to pay the dues to a tune of Rs.25,30,856/- as on 18.01.2025. The respondents though received the notice, they neither sent any reply nor paid the demand amount. Since, the respondents have not repaid the outstanding loan amount, the petitioner issued possession notice under section 13(4) of the SARFAESI Act on 26.03.2025. The demand notice and possession notice were also published in English and Tamil Newspaper on 31.03.2025. The respondents have not surrendered physical possession and hence the petitioner has approached this court under section 14 of the SARFAESI Act to assist them in taking physical possession of the scheduled property.

3) Point for determination:

Whether the petitioner is entitled for assistance of this court in taking physical possession of the scheduled property under section 14 of the SARFAESI Act as prayed for?

4) The authorised officer of the petitioner bank has been examined as PW1 and Ex.P1 to Ex.P15 documents were marked. The submissions made by the learned counsel for the petitioner was heard and carefully considered and the exhibits produced by the petitioner were carefully perused.

5) Point and Answer:

(i) The petitioner is M/s. Cholamandalam Investment & Company Limited which falls squarely within the definition of bank under section 2(1)(c) of the SARFAESI Act. The petitioner bank have produced Ex.P2, Resolution passed at the

meeting of the Board of Directors, through which Mr.P.Velmurugan was appointed as one of the authorized officers to represent the bank in the proceedings taken under SARFAESI Act.

(ii) The 1st and 2nd respondents are the borrowers and 2nd respondent stood as Co-borrower and the 3rd respondent stood as Guarantor. The respondents have availed the housing loan facilities against the property of the 1st respondent to an amount of Rs.24,40,000 /-. Ex.P3, P4, Loan Sanction letters shows that the respondents had availed loan as stated by the petitioner.

(iii) The loan has been sanctioned against the property of the 1st respondent. Ex.P15 shows that the 1st respondent is the absolute owner of the petition scheduled property. Ex.P5 and P6 were the memorandum of deposit of title deed of the petition scheduled property executed by the 1st respondent. The respondents have thus created security interest over the scheduled property and the petitioner has valid and subsisting security interest over the scheduled property.

The Encumbrance Certificate of the scheduled property has been marked as Ex.P15. The Memorandum of Deposit of title deed is reflected in the Encumbrance Certificate. It is also candid from Ex.P15, Encumbrance Certificate that the scheduled property is located in Sivakasi Town, Virudhunagar District and thereby within the jurisdiction of this Court. The respondents have thus created security interest over the scheduled property and the petitioner bank has valid and subsisting security interest over the scheduled property.

(iv) The respondents have defaulted in repayment of the loan amount obtained from the petitioner bank which is evident from Account Statements produced as Ex.P14. Hence, the loan has been declared as Non Performing Asset on 16.01.2025 as per the guidelines of the Reserve Bank of India.

(v) The 1st and 2nd respondents are the borrowers and 2nd respondent stood as Co-borrower and the 3rd respondent stood as Guarantor. The petitioner bank issued notice under section 13(2) of the SARFAESI Act to the respondents 1 to 3 demanding repayment of the loan amount. The notice under section 13(2) of the

SARFAESI Act has been produced as Ex.P7. The petitioner bank is thus entitled to take physical possession of the scheduled property. The petitioner bank has taken symbolic possession by issuing Ex.P10, possession notice, and the possession notice has been published in Tamil and English Newspapers vide Ex.P12 and P13.

(vi) Though, the respondents have been served with the notice, they have not surrendered physical possession of the scheduled property. The authorized signatory of the petitioner bank has affirmed on oath that the respondents are purposely delaying surrender of possession of the scheduled property and that there is no stay granted against taking possession of the scheduled property. From the affirmation of the authorized signatory of the petitioner on oath and on perusal of the documents exhibited on the side of the petitioner, this court is satisfied that the petitioner bank has properly complied with the conditions precedent for invoking the provision under section 14 of the SARFAESI Act. Through the affidavit filed by the authorized signatory and through the exhibits marked on their side, the petitioner has satisfactorily established the default on the part of the respondents 1 to 3 in repayment of the loan amount; the loan amount is not barred by limitation; the scheduled property was offered as security for the loan amount secured and; the scheduled property is located within the jurisdiction of this court.

(vii) Thus, considering the above observations, this court finds it fit to issue proper direction to take physical possession of the secured assets described in the schedule of property after taking proper inventory and also to handover the possession of the property to the petitioner bank and as such this petition is liable to be allowed.

In the result, this petition is allowed thereby appointing **Mr.P.Ramesh (MS No.912/2016)** as Advocate Commissioner

1. to inspect the petition mentioned property after giving notice to both side;
2. to take inventories;
3. to take physical possession and immediately hand it over to the petitioner/secured creditor;

4. the Inspector of Police, Sivakasi Town Police station and the Village Administrative officer, Sivakasi Town are directed to provide suitable assistance to the Commissioner in executing the warrant in respect of the property in their respective jurisdiction;

5. the Advocate Commissioner may break open any locks put to the doors of the scheduled property if the same is necessary for handing over physical possession.

A sum of Rs.25,000/- is fixed as remuneration for the said Advocate Commissioner. Out of Rs.25,000/- Rupees 12,000/- shall be paid directly to the commissioner and the remaining Rs.13,000/- shall be **deposited into this Court within 10 days**. After executing the warrant and filing his report, the Advocate Commissioner is entitled to get the remaining remuneration of Rs.13,000/- from the Court by filing separate E-transfer application. For filing of commissioner report call on 15.09.2025.

**Chief Judicial Magistrate,
Virudhunagar District at
Srivilliputhur.**

SCHEDULE OF PROPERTY

Virudhunagar District, Virudhunagar Registration District, Sivakasi Sub Registrar Office, Sivakasi Town, Ward No.2, New Ward No.4, 17th Street Jawharlal Nehru Road-1, Town survey Ward E, Block No.1, T.S.No.68 and T.S.No.69, Sivakasi Village S.No.584/1, and S.No.591/1 and S.No.591/3 and S.No.591/4, S.No.596/1 in divided into several house Plots southern side, Door No.47H and 47H1 New Door No.893 and 893/1, Ward E, Block No.1, T.S.No.104, Plot No.7 Northern side 450 Sq.ft of land and building bounded by

Boundaries

North by : East West Road,
South by : Property belonged to Parvathi and common wall
East by : Property belonged to Anandha Moopanar and 3 feet common lane
West by : Property belonged to Sangaiah Moopanar and 3 feet common lane

Measurement

East to west on the Northern side 18 feet and southern side 18 feet, South to North on the western side 25 feet and Eastern side 25 feet Totally 450 Sq.ft.

Petitioner side Documents :

Ex.P.1	05.08.2016	Company Registration Certificate	True Copy
Ex.P.2	31.01.2023	Authorisation letter issued by the petitioner bank to its employee namely Mr.P.Velmurugan	Compared with office copy
Ex.P.3	27.03.2023	Loan Sanction letter	Compared with original
Ex.P.4	20.04.2023	Loan Sanction letter	Compared with original
Ex.P.5	05.04.2024	Memorandum of Deposit of the title deed Doc No.3902/2024	Compared with original
Ex.P.6	08.06.2023	Memorandum of Deposit of the title deed Doc No.5760/2023	Compared with original
Ex.P.7	18.01.2025	SARFAESI Act Sec 13(2) Demand notice along with postal receipts and postal tracking extracts	Compared with original
Ex.P.8	23.01.2025	Demand Notice in The Dinamani Tamil Newspaper	Original
Ex.P.9	23.01.2025	Demand Notice in The New Indian Express English Newspaper	Original
Ex.P.10	26.03.2025	SARFAESI Act Sec 13(4) Possession notice, Postal receipts and Postal tracking extracts	Compared with original
Ex.P11	--	Schedule of Property photo	Photo copy
Ex.P12	31.03.2025	Possession Notice in The Dinamani Tamil Newspaper	Original
Ex.P13	31.03.2025	Possession Notice in The New Indian Express English Newspaper	Original
Ex.P14	--	Statement of Account of the respondent	System Generated copy
Ex.P15	--	Encumbrance Certificate & Sale deed	Online copy, Compared with original

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Virudhunagar District at
Srivilliputhur.
Chief Judicial Magistrate Court,
Virudhunagar District at
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Cr.M.P.No.1085/2025
Order Dated: 04.09.2025