

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL

Present: Tmt.V. Deepa, M.L.,
Chief Judicial Magistrate, Dindigul.



Dated 25th day of August 2025.

Cr.M.P.No. 2173/2025
CNR.No. TNDG030017142025.

M/s. Kotak Mahindra Bank Ltd.
Having Branch Office at No: 1050,
2nd floor, Srinivas Bhavan, Avinashi Road,
Coimbatore-641018 represent by its Authorized officer
Vignesh Prabhu
(Assigned by M/s. SMFG INDIA HOME FINANCE COMPANY LIMITED)

...Petitioner

//VS//

1. A. Kasilingam (Died)
2. K. Nagamani (46/24),
W/o. Late.Kasilingam,
No.63/15, Anna Nagar, VOC Nagar,
Ranganathpuram, Tirupur-641 607.
3. K. Gokulraj, (Minor) (Not Known)
S/o. Late.Kasilingam,
No.63/15, Anna Nagar, VOC Nagar,
Ranganathpuram, Tirupur-641 607.
4. K. Lakshmi (Not Known)
D/o. Late.Kasilingam,
No.63/15, Anna Nagar, VOC Nagar,
Ranganathpuram, Tirupur-641 607.

...Respondents

ORDER

1. Heard, the Petitioner filed this application U/s. 14 of Securitization and Reconstruction of Financial Assests and Enforcement of Security Interest Act (SARFAESI Act) 2002 seeking assistance of this court to take possession of Secured

Asset. The Petitioner filed an affidavit that the respondents availed a Loan for a sum of Rs. 7,30,000/- from petitioner's Bank on 22.04.2019 by creating an Equitable Mortgage. The respondents executed the relevant Registered Memorandum of Deposit of Title Deed, Dated: 30.04.2019. The loan became non performing assets on 06.04.2024. Therefore, the respondents were served with Demand Notice Dated: 23.04.2024, U/s.13(2) of the Sarfaesi Act. The respondent, however, failed to repay. Hence as per account statement dated 04.04.2025 the total claim amount is Rs. 7,04,850/- (Ex. P10). The schedule property does not suffer from and Encumbrance, for supporting of this Case Ex. P1 to Ex. P19 marked.

2. SCHEDULE OF PROPERTIES

All that piece and parcel of the property bearing House Building Door No.5/106, to an extent of 760 Sq.Ft., comprised in Survey No.48/1, as per R.S.No. 48/1A, presently as per Sub Division Survey No. 48/7, in and out of large extent of 55 1/2 cents Situated at Ramarajapuram Village Vadipatti Sub registration District Nilakottai Taluk, Madurai North Registration District and Bounded on it. (Now Dindigul District)

North - East -West Common Lane

South – East – West Street

East – House belongs to vellaipillai and common wall

West – House belongs to Arichandran and common wall

Measuring

Northern side 39 Feet

Southern side 39 Feet

Eastern side 19-1/2 Feet

Western side 19-1/2 Feet

Situated within the Sub Registration District of Vadipatti and Registration District of Madurai North, Dindigul District.

3. As per the under section 14 (3) of SARFAESI Act, the CMM or DM Magistrates perform only the ministerial functions. For reference the same is extracted below:

“No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority”

4. In this Juncture the following rulings taken into consideration and followed.

(i) Techno Builders and Ors //VS// Canara Bank and ors (MANU/TN/9525/2019) Hon’ble High Court of Madras.

(ii) Standard Chartered Bank – Vs – Noble Kumar and others in 2013 CTC 6 683: 2013 (5) LW 97.

Therefore, services of any notice to the borrower is not contemplated in Section 14 of the Act. On hearing of petitioner side and careful perusal of the petition, affidavit and documents this court is of a view to appoint an Advocate Commissioner for taking possession of the petition mentioned property, without sending any notices to the respondents.

5. In fine, the petition is allowed and Advocate Mr.R. Subash, Enrollment No. MS 276/2025 is hereby appointed as Advocate Commissioner. For taking possession by break open the buildings of the secured asset as mentioned in the schedule of property and to hand over the same to the secured creditor / petitioner with the Assistant of the concerned Revenue Authorities and Inspector of Police, if necessary. The Commissioner’s remuneration is fixed at Rs.25,000/- The remuneration has to be paid by the petitioner directly and immediately to the Advocate Commissioner. Report by 25.09.2025.

Dictated by me, directly to the Steno-typist and typed by her in computer and after rectification taken printout and pronounced by me in Open Court on this 25th day of August 2025.

(Sd/..) Tmt.V. Deepa,
Chief Judicial Magistrate,
Dindigul.

1) Petitioner side witness:
PW1 Mr.S. Vignesh Prabhu.

2) No.of Exhibits marked on the side of the Petitioner:-

Sl.No.	Date	Description of Document	Remark
1.	31.12.2024	Master Assignment Agreement dated 30.12.2024	Attested true copy
2.	13.07.2023	Letter of Authority	Attested true copy
3.	15.05.2023	Certificate of Incorporation	Attested true copy
4.	08.04.2019	Loan Application	Attested true copy
5.	22.04.2019	Sanction Letter	Attested true copy
6.	22.04.2019	Agreement for Loan executed by the 1 st & 2 nd Respondents in favour of the petitioner company	Attested true copy
7.	30.04.2019	Memorandum of Deposit of Title Deeds Registered as Document No.851/2019	Attested true copy
8.	07.02.2011	Registered Settlement Deed in favour of the 1 st Respondent, bearing Document No. 290/2011	Attested true copy
9.	04.04.2025	Encumbrance Certificate	Attested true copy
10.	04.04.2025	Statement of Accounts	Attested true copy
11.	23.04.2024	Copy of Demand Notice	Attested true copy
12.	26.04.2024	Online Demand notice Postal Track Consignments for all the respondents	Attested true copy
13.	29.04.2024	Publication of Demand Notice in Dinamani	Attested true copy
14.	29.04.2024	Publication of Possession Notice in the New Indian Express	Attested true copy
15.	11.07.2024	Copy of Possession Notice	Attested true copy
16.	--	Possession Notice affixed Photograph	Attested true copy
17.	16.07.2024	Publication of Possession Notice in Dinamani	Attested true copy
18.	16.07.2024	Publication of Possession Notice in Financial Express	Attested true copy
19.		Letter of Authority	Attested true copy

(Sd/..) Tmt.V. Deepa,
Chief Judicial Magistrate,
Dindigul.

Cr.M.P.No. 2173/2025

Date: 25.08.2025.

Order pronounced in open Court.

In the result, Advocate Mr.R. Subash, Enrollment No. MS 276/2025 is hereby appointed as Advocate Commissioner. For taking possession by break open the buildings of the secured asset as mentioned in the schedule of property and to hand over the same to the secured creditor / petitioner with the Assistant of the concerned Revenue Authorities and Inspector of Police, if necessary. The Commissioner's remuneration is fixed at Rs.25,000/- The remuneration has to be paid by the petitioner directly and immediately to the Advocate Commissioner. Report by 25.09.2025.

(Sd/..) Tmt.V. Deepa,
Chief Judicial Magistrate,
Dindigul.

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL

Present: Tmt.V. Deepa, M.L.,
Chief Judicial Magistrate, Dindigul.



Dated 25th day of August 2025.

Cr.M.P.No. 2173/2025
CNR.No. TNDG030017142025.

M/s. Kotak Mahindra Bank Ltd.
Having Branch Office at No: 1050,
2nd floor, Srinivas Bhavan, Avinashi Road,
Coimbatore-641018 represent by its Authorized officer
Vignesh Prabhu
(Assigned by M/s. SMFG INDIA HOME FINANCE COMPANY LIMITED)

...Petitioner

//VS//

1. A. Kasilingam (Died)
2. K. Nagamani, (46/24)
W/o. Late.Kasilingam,
No.63/15, Anna Nagar, VOC Nagar,
Ranganathpuram, Tirupur-641 607.
3. K. Gokulraj, (Minor) (Not Known)
S/o. Late.Kasilingam,
No.63/15, Anna Nagar, VOC Nagar,
Ranganathpuram, Tirupur-641 607.
4. K. Lakshmi (Not Known)
D/o. Late.Kasilingam,
No.63/15, Anna Nagar, VOC Nagar,
Ranganathpuram, Tirupur-641 607.

...Respondents

Warrant of Commissioner

Whereas it is deemed requisite for the purpose of this CrI.M.P.No. 2173/2025
that a Commission should be issued. Hence Advocate Mr.R. Subash, Enrollment

No. MS 276/2025 is hereby appointed as Advocate Commissioner. For taking possession by break open the buildings of the secured asset as mentioned in the schedule of property and to hand over the same to the secured creditor / petitioner with the Assistant of the concerned Revenue Authorities and Inspector of Police, if necessary. The Commissioner's remuneration is fixed at Rs.25,000/- The remuneration has to be paid by the petitioner directly and immediately to the Advocate Commissioner. Propose to compel the attendance before you of any witnesses for the production of any documents, whom of which you may desire to examine or inspect will be issued by any Court having jurisdiction or your application.

A sum of Rs.25,000/- fixed for Advocate / Commissioner's fee, has been paid directly by the petitioner/Secured creditor. The Commissioner is hereby directed to receive the commission fee and file his report on or before 25.09.2025.

Given under my hand and the seal of this Court on the 25th day of August 2025.

(Sd/..) Tmt.V. Deepa,
Chief Judicial Magistrate,
Dindigul.

SCHEDULE OF PROPERTIES

All that piece and parcel of the property bearing House Building Door No.5/106, to an extent of 760 Sq.Ft., comprised in Survey No.48/1, as per R.S.No. 48/1A, presently as per Sub Division Survey No. 48/7, in and out of large extent of 55 1/2 cents Situated at Ramarajapuram Village Vadipatti Sub registration District Nilakottai Taluk, Madurai North Registration District and Bounded on it. (Now Dindigul District)

North - East -West Common Lane

South – East – West Street

East – House belongs to vellaipillai and common wall

West – House belongs to Arichandran and common wall

Measuring

Northern side 39 Feet

Southern side 39 Feet

Eastern side 19-1/2 Feet

Western side 19-1/2 Feet

Situated within the Sub Registration District of Vadipatti and Registration District of Madurai North, Dindigul District.

(Sd/..) Tmt.V. Deepa,
Chief Judicial Magistrate,
Dindigul.

To

1. Mr.R. Subash, Advocate/Commissioner,
Enrollment No. MS 276/2025,, Dindigul.
2. The File.