BEFORE THE SPECIAL JUDGE / CHIEF JUDICIAL MAGISTRATE, DHARMAPURI

Present: Tr.R.Mohamed Rizwanullah Sheriff, B.Sc., B.L.,
Chief Judicial Magistrate, Dharmapuri

Dated this 09th day of July 2026, Thursday

Crl.M.P.No. 769 of 2026

CNR.No.TNDP 04 - 000667 - 2026

M/s.Hinduja Housing Finance Limited,
A Company incorporated Under the Provisions of
Companies Act, 2013, Having Registered office at
No.27A, Developed Industrial Area Guindy,
Area, Guindy, Chennai – 600 032
Represented by its Authorized officer
Mr.Hariharanathan A .... **Petitioner**

-Vs-

1. Mr.Siva Kumar (Age 33 above)
   S/o.Mariyappan
   1/80, Jakkampatti, Koothappadi,
   Pennagaram, Semiurban
   Dharmapuri, Tamil Nadu 636 810

2. Mr.Mariyappan M (Aged 56 above)
   S/o.Muniyappan
   1/80, Jakkampatti, Koothappadi
   Pennagaram, Semiurban
   Dharmapuri, Tamil Nadu – 636 810

3. Mrs.Selvi P (Age 51 above)
   W/o.Perumal
   1/80, Jakkampatti, Koothappadi
   Pennagaram, Semiurban
   Dharmapuri, Tamil Nadu – 636 810 .... **Respondents**

This petition having stood over for consideration on the file of this court till this date finally came up before me on 06.07.2026 in the presence of **Mr.R.Ashok kumar, Mr.K.Siva Raja Pandian, Vinothini, Mr.S.Praveen Kumar, T.Jothisha and Mr.M.Arunkumar** and learned counsels for the petitioner and upon perusing the documents and hearing the arguments of the petitioner side this court today doth deliver the following:

ORDER

1) The petition is filed seeking assistance from the court in taking possession of secured assets of the respondents U/s.14 of the SARFAESI Act of 2002.

2) Case of the petitioner is as follows:

The Respondents approached the petitioner for availing the mortgage loan of Rs.20,00,000/- against the property which is more fully mentioned in the schedule hereunder. The petitioner accepted the respondents request and sanctioned a loan a sum of Rs.11,70,000/- for a period of 120 months vide Sanction letter dated 01.02.2024, issued by the petitioner on such terms and conditions as more particularly mentioned in the said sanction letter. Subsequently the M/s.Hinduja Housing Finance Limited and respondents on 01.02.2024 respectively, entered a Loan Agreement in Account No.TN/SLM/SALM/A000001199 on such terms and conditions more particularly mentioned in the said loan agreement. The petitioner that the Second Respondent have created charges over the schedule mentioned property vide memorandum of Deposit of Title Deeds Dated 19.02.2024 registered as Document No.1097 of 2024 in the office of the sub Registrar of Pennagaram which is more fully described in the schedule hereunder. The schedule mentioned property is acquired by the Second Respondent vide **Sale Deed** dated 19.01.2024 registered as Document No.256 of 2024 in the office of the sub - Registrar, Pennagaram. The petitioner that pursuant thereto, a sum of Rs.11,70,000/- was disbursed to the respondents on 01.02.2024. In consideration thereof the respondents agreed and undertook to repay the said loan of Rs.11,70,000/- in schedule to be repaid in 240 numbers of monthly installments of Rs.18,520/- owing to evasion rates of interest in the Penal rate of interest is @ 14.50% p.a each paid the installments are to be continue till now at the said rate of interest, in case of delay/default in payment of the loan installments and other amounts due and payable under the said Agreement, the respondents had also agreed to pay overdue charges on such delayed payments from the due date of payment. The Respondents committed default in payment of the Equated Monthly Instalments (EMI) and other amounts due and payable under the said loan Agreement and despite repeated requests and remainders they have failed and neglected to pay the overdue EMI's and other interest and charges as per the agreement. The above accounts of the respondents were classified as Non Performing Asset No 05.09.2025 in accordance with RBI rules. That pursuant to the provisions of the said Act, the petitioner through its Authorized Officer, issued notice dated 25.09.2025, under section 13(2) of the said Act to the Respondents calling upon them to make payment of the outstanding sum of Rs.12,19,541/- (Rupees Twelve Lakhs Nineteen Thousand and Five Hundred Forty One Only) payable upto 25.09.2025 together with further interest till the date of payment, within a period of 60 days from the date of the said notice failing which the petitioner could exercise all or any of its rights available to it under the said Act, in respect of the secured asset. The said Notices has been duly sent through the Registered Post and same has been served to the all respondents and kept an Evidence as online Tracking Consignments the petitioner is duly complied the rule 8(1) & (2) of the security interest (Enforcement) Rule 2002. The petitioner that the respondents herein had failed to remit the agreed instalments thereby the total amount outstanding in the loan account as on 29.01.2026 is Rs.11,52,728/- (Rupees Eleven Lakhs Fifty Two Thousand Seven Hundred and Twenty Eight Only) as per statement of accounts. The petitioner that the respondents neither raised any objections nor given any representation under Section 13(3A) of the said Act. The petitioner that despite the said notice, the respondents have failed and neglected to discharged their liability within stipulated period as mentioned in the said notice hence the authorized officer of the applicant proceeded further under the provisions of SARFAESI Act and took symbolic possession of the secured asset on 30.12.2025 which was affixed the conspicuous part of the secured assert and by drawing Panchnama to that effect. The said notices has been duly sent through the Registered Post and same the has been served to the all respondents and kept as evidence as online track consignments. There after the petitioner effected the paper publication for the possession notice in the daily newspapers namely "The New Indian Express" (English Daily) and "Dinamani" (Tamil Daily - vernacular Language) on 01.01.2026. The petitioner is duly complied the Rule 8 (1) & (2) of the security interest (Enforcement) Rules 2002. The petitioner has come to know that the respondents had made all the arrangements to resist authorized officer from taking the physical possession of the secured asset. So the petitioner apprehends that the respondents or their agents will resist the authorized officer of the petitioner in taking possession of the secured assets resulting in breach of peace. The petitioner has already issued notices under the SARFAESI Act to the respondents which have been duly served on them. It is judicially settled through different judgments including the one of the latest decision of the Supreme Court In standard chartered bank Vs.Noble Kumar (2013) 9 SCC 620 it was held that a secured creditor can directly move petition under sec.14 immediately after section 13(2) notice and symbolic possession under section 13(4) is required, by its notice dated 30.12.2025 petitioner company already taken symbolic possession of the secured asset. The secured asset is not in possession of a lessee under a valid lease made prior to the creation of mortgage by the borrower or made in accordance with Sec.65A of the Transfer of property Act prior to the receipt of the notices under sub section (2) of section 13 of the

SARFAESI Act by the borrower. This court empowered and has jurisdiction under section 14 of the securitization Act 2002 to take possession of such secured asset and to deliver to the petitioner. The Advocate Commissioner to be appointed and authorizing him to resort police assistance if the circumstances may so warrant for the effective enforcement of the order and to hand over such secured assets to the secured creditor. The petitioner has not filed section 14 petition against the Respondents before any other court. There is no stay the schedule mentioned property by the DRT or any court forum. The petitioner that the secured assets is not agricultural property and the section 31 of SARFAESI Act is not applicable. The petitioner that the secured assets situated within the limit of Kodihalli village and this property is lying within the limits of Pennagaram Police Station. This court has got jurisdiction to entertain this petition and proceed with the same. The petitioner that the outstanding amount claimed by the petitioner against the Respondents are not less than 20% of the Principle Amount as prescribed under SARFAESI Act (Loan Amount – Rs.11,70,000/- outstanding amount Rs.11,52,728/-) as per statement of accounts. To take physical possession of the secured asset being the immovable property more fully described in the schedule hereunder, together with documents relating thereto, if any, by directing/subordinating any officer authority and with the assistance of the Inspector of police, Pennagaram Police Station having Jurisdiction over the area if necessary where the schedule mentioned property is situated and hand over the same to the Authorized officer of the petitioner company in accordance with section 14 of the SARFAESI Act 2002. To break open the immovable property and take inventory of the articles if any removing the items lying there and to hand over vacant possession of the secured asset, with the documents relating thereto.

3) The point for consideration in this petition is that can the petition scheduled property be taken possession and deliver to the petitioner?

4) The petitioner has sanctioned loan of Rs.11,70,000/- (Rupees Eleven Lakhs and Seventy Thousand only) Vide Loan agreement A/c.No.TN/SLM/SALM/A000001199 on 01.02.2024. For which the respondents had the Memorandum of Deposit of Title Deeds in Doc.No.1097 of 2024 on 19.02.2024 and Sale Deed Document No.256 of 2024 dated 19.01.2024 in favour the petitioner. Where as the Respondents committed default in repaying the loan amount and it was classified as non performing assets on 05.09.2025. The petitioner invoking provision U/s.13(2) of SARFAESI Act 2002 issued demand notice on 25.09.2025 to the Respondents calling upon them to repay the loan amount but they failed to discharge the debt. Alter lapse of statutory period to 60 days. The petitioner has taken symbolic possession of the petition scheduled property by issuing possession notice on 30.12.2025 and further possession notice has been published in two leading news papers "Dinamani" and "The New Indian Express" on 01.01.2026. The total outstanding amount due to be paid in Rs.11,52,728/- (Rupees Eleven Lakhs Fifty Two Thousand and Seven Hundred Twenty Eight Only) Loan Agreement Nos.TN/SLM/SALM/A000001199 as on 29.01.2026. Considering the same, the petitioner is entitled to get physical possession of the petition scheduled property. To accomplish the task, it is necessary to appoint advocate commissioner and issue direction to both Revenue Official and SHO of Police Station concerned. Hence this petition is deserved to be allowed.

In fine, the petition is allowed. **Mr.M.Naveen kumar** is appointed as commissioner. He is directed to take possession of the petition scheduled property by breaking open the door wherever necessary and deliver it up to the petitioner herein. The Tahsildar, **Pennagaram** Taluk, Dharmapuri District is hereby directed to render assistance to the advocate commissioner in surveying the petition scheduled property and delivering possession to the petitioner. Further, the SHO of **Pennagaram Police** station, Dharmapuri District is directed to give police protection to the advocate commissioner while delivering possession of the petition scheduled property wherever situation warrants so. For the said work, a sum of Rs.20,000/- is fixed as remuneration for the advocate commissioner. The petitioner shall deposit remuneration into court forthwith. The advocate commissioner shall complete the process of delivering possession and file report thereof before this court on or before 08.09.2026. After that, the advocate commissioner shall withdraw his remuneration from the court.

Directly dictated to the Steno - Typist and typed by her corrected and pronounced by me in open Court this the 9th day of July 2026.

MOHAMED RIZWANULLAH SHERIFF

Digitally signed by MOHAMED RIZWANULLAH SHERIFF
Date: 2026.07.09 11:43:48 +0530

CHIEF JUDICIAL MAGISTRATE,
DHARMAPURI.

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Draft /Fair Order

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Dated : 09.07.2026