

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, ERODE**

Present:- Tmt.K. Krishna Priya, M.L.,  
Chief Judicial Magistrate, Erode.

Tuesday, the 08<sup>th</sup> day of July 2025.

**C.M.P. No. 998 of 2025**

(CNR.No.TNED04-002128-2025)

STANDARD CHARTED BANK  
REPRESENTED BY ITS  
THE AUTHORISED SIGNATORY,  
MR. V. SATHYA NARAYANAN,  
NO. 19, RAJAJI SALAI  
CHENNAI - 600 001.

..... Petitioner/Secured Creditor

// Vs //

- 1) M/S. MOTHI  
A PARTNERSHIP FIRM,  
REPRESENTED BY ITS PARTNERS  
i. SENTHIL.T  
ii. SATHYA SARAN. V.S  
iii. MAHADEVAN. K.S  
11,RKV ROAD,  
ERODE-638 001.
- 2) Mr.SENTHIL.T  
S/o, THANGAVEL  
FLAT No. DI,  
SAFFRON SUMMERS APARTMENT,  
24 NARAYANASAMY ROAD,  
RED FIELDS,  
COIMBATORE - 641 045.
- 3) Mr.SATHYA SARAN. V.S  
S/o. JEEVANATHAM.V  
5A, POOSARI CHENNIMALAI  
2<sup>nd</sup> STREET, SURAMPATTI,  
ERODE - 638 009.
- 4) Mr. MAHADEVAN. K.S  
OLD 5, NEW 4, GANDHI NAGAR  
COLONY, 2<sup>nd</sup> STREET,  
NEAR CORPORATION WATER TANK,  
ERODE - 638 009.
- 5) Mrs.T. GNANAM,  
W/o, P.THANGAVEL

D. NO.22, AWAIYAR STREET,  
VEERAPPANCHATRAM,  
ERODE-638 004.

.....Respondents/Borrower

This petition coming up for final hearing before this Court on **09.06.2025** in the presence of **Mr.K.Sevugan**, 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 for following:

### **ORDER**

This petition has been filed by the petitioner for Assistance under Section 14 of the SARFAESI Act 2002.

2. It is the case of the petitioner that the **STANDARD CHARTED BANK, Chennai Branch**, had extended the financial assistant/ facilitated in the account of the Respondents to the tune of **Rs.1,55,00,000/-**. The said respondents who are under a liability to repay the outstanding loan amount to the petitioner's Bank. The Respondents executed necessary loan documents and security agreements. Thereby created Security interest in respect of the immovable properties described as such in the petition. The said property is situated within limit of **Erode District, Erode Taluk, outside the Erode Municipal Limit, Erode Village**. Since, the Respondents had defaulted in repayment of the aforesaid credit facilities and the petitioner had notified the said account as **NPA(Non Performing Asset)** on **01.03.2024**. Subsequently, the petitioner's Bank initiated recovery proceedings under the provisions of SARFAESI Act by issuing notice u/s.13(2) to them on **24.09.2024**. The respondents have received the above said notice despite which the respondents did not pay any amount. The petitioner also took symbolic possession of the schedule property on **21.01.2025** and issued possession notice to the respondent and also published it in two leading Newspapers on **25.01.2025**. As on **23.09.2024**, **Rs.1,56,41,241.08/-** is due and payable by the respondents. The petitioner could not

take physical possession of the property as the respondents are refusing and resisting in handing over the vacant physical possession of the property. Unless physical possession is handed over, the petitioner will be put to great loss. Hence the petitioner filed this petition.

3. Now the question is that whether the petition filed by the petitioner under Sec. 14 of SARFAESI Act has to be allowed or not?

4. Heard the counsel for the petitioner, on perusal of the records, the following particulars are emerged from the affidavit, petition and documents filed by the petitioner.

**LIST OF DOCUMENTS**

<b>Sl. No.</b>	<b>Date</b>	<b>Description of Documents</b>
1.	10.06.2024	Copy of Power of Attorney executed by the petitioner bank in favour of Authorized Signatory Mr.SathyaNarayanan
2.	11.03.2019	True Copy of the application form submitted by the Respondents
3.	30.03.2019	True Copy of the facility letter executed by respondents in favour of petitioner.
4.	30.03.2019	True Copy of the facility agreement executed by respondents in favour of petitioner.
5.	21.04.1978	True Copy of the Sale deed executed in favour of the Respondent No.5 registered as document No. 1162 of 1978
6.	22.04.2019	Memorandum of Deposit of Title Deeds executed by the Respondent No.5, registered as Doc. No.2512/2019.
7.	05.03.2025	Online Copy of the Certificate of Encumbrance on property.
8.	24.09.2024	True Copy of Demand Notice under section 13(2) of the Act.
9.	27.09.2024	True Copy of the Acknowledgement cards
10.	21.01.2025	True Copy - of the Possession Notice under section 13(4) of the SARFAESI Act issued by the Petitioner to the Respondents.
11.	23.01.2025	True Copy of Acknowledgement Card / Returned covers of the possession notice.
12.	25.01.2025	True Copy of the paper publication of the Possession Notice published in English daily by name "The Times of India".
13.	25.01.2025	True Copy of the The paper publication of the Possession Notice

		published in vernacular Tamil daily by name “Dinakaran”.
14.	21.01.2024	True copy of the photograph of Symbolic possession taken by Authorised officer for the mortgaged property.
15.	23.09.2024	Computerized Statement of Accounts maintained by the Petitioner in the regular course of business as per the Bankers Book Evidence Act Account bearing No.51923033

5. The petitioner has produced copy of loan documents, title deed, notice, postal acknowledgments, paper publications, possession notice. The petitioner has established that the schedule mentioned properties were hypothicated and mortgaged. 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 by the respondent. The respondent is not entitled to any further notice under the said act from this court. The petitioner Bank is having its **Branch at Chennai** and the petition mentioned property is situated within limit of **Erode District, Erode Taluk, outside the Erode Municipal Limit, Erode Village**. Encumbrance certificate also produced by the petitioner to show that the title of the respondents is clear and valid. Necessary affidavit of the authorized officer of the Secured Creditor/Petitioner also produced, who duly affirmed that the provisions of the SARFAESI Act and rules have been complied with. This court is satisfied about the contents of the affidavit filed for the purpose of taking the possession of secured assets. Thus, there is compelling situation for the petitioner to realize the loan amount by taking necessary action to take actual possession of the secured assets by sale or transfer. For the said purpose, it is just and necessary to render assistance to the secured creditor in taking possession of the secured assets and in doing so, the court can appoint a Commissioner for identification of the secured assets and taking possession there of and if there is any resistance, ask for police assistance and take any effective steps to have possession of the secured assets taken over.

6. The Hon’ble Supreme Court also mandates the following guidelines in **the Authorised Officer, Indian Bank Vs The Visalakshi and another (Civil Appeal**

No. 6295 of 2015), dated 23.09.2019.

**“This 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”**

**“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 possession ”**

**“The power to be exercised under Section 14 of the 2002 Act by the concerned authority is, by its very nature, nonjudicial or State’s coercive power. Furthermore, the borrower or the persons claiming through borrower or for that matter likely to be affected by the proposed action being in possession of the subject property, have statutory remedy under section 17 of the 2002 Act and /or judicial review under Article 226 of the Constitution of India. In that sense, no prejudice is likely to be caused to the borrower/lesses: nor is it possible to suggest that they are rendered remediless in law. At the same time, the secured creditor who invokes the process under Section 14 of the 2002 Act does not get any advantage much less added advantage”**

**“It also noted that the authority after receiving such request under Section 14 of the 2002 Act, was not expected to do any further scrutiny of the matter except to verify from the secured creditor whether notice under Section 13(2) of the Act has already been given or not and whether the secured asset is located within his jurisdiction. There is no adjudication of any kind at this stage. The Court also noticed in paragraph 23 of the reported judgment that after**

**amendment of Section 14 of the 2002 Act, by inserting first proviso therein, the designated authority has to satisfy itself only with regard to the matters mentioned in clauses (i) to (ix) ”** From the above documents produced by the petitioner and in view of the principles laid down, it is clear that the provisions of SARFAESI Act has been complied with. Considering all aspects, this court is of the view that an appropriate direction to prepare inventory and to take physical possession of the secured asset shall be passed in favor of the petitioner and as such, this court is inclined to allow this application.

### **SCHEDULE OF PROPERTY**

Erode Registration District, Erode Sub Registration District, Erode Taluk, outside the Erode Municipal Limit, Erode Village, old S.F.No.326 punja acre 8.06 for this kist Rs.9.06 for this R.S.No.401/23 part and natham R.S.No.401/11 in this the property situates within the following boundaries:

West of the 20 feet broad north south road

East of the Kuttakadu

South of the property of N.Palanisamy

North of the land of Pavathal

Which admeasures 94 feet on East West on north, 95 feet on East West on south and 30 feet on North South on both sides with a total extent of 2835 square feet of land and the house therein with the Door No.22 of Awaiyar Street, Veerappanchatram with the common rights in all roads and all easementary rights thereto.

The above said property situated within the then Veerappan chatram 3d grade Municipal Limit Ward No. 12 Avvaiyar Street

Presently, the above said property situates within the Erode Corporation.

In the result, this application is allowed, thereby appointing **Mr.C.Irusagounden, MS.No.174/1995,** as an Advocate Commissioner.

1. To inspect the petition mentioned property:
2. Take inventories:
3. Take physical possession and immediately hand over to the petitioner/secured creditor and
4. If necessary take assistance of Police and Revenue Officials in executing the warrant.

A sum of Rs.20,000/- in fixed as remuneration for the said Advocate Commissioner. The petitioner shall deposit the said remuneration into the court within 15 days. After executing the warrant and filing his report, the Advocate Commissioner is entitled to get the said remuneration by filing necessary application. Report by **11.08.2025**.

This order dictated directly to the typist, typed by him, corrected and pronounced by me in the open court, on this the **08<sup>th</sup> day of July 2025**.

**Sd/-K.KRISHNA PRIYA,  
CHIEF JUDICIAL MAGISTRATE,  
ERODE.**