

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, ERODE.

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

Monday, the 15st day of September 2025.

C.M.P. No. 1702 of 2025

(CNR.No.TNED04-002810-2025)

Can Fin Homes Ltd.,
64/5, GRDI Complex,
Second Floor, Perundurai Road,
Erode-638011

Represented by Senior Manager
Arivalagan, S/o. Chandrasekaran

..... Petitioner/Secured Creditor

// Vs //

1) 1. Late M.Nagarajan
S/o Mariappan

2) N.Krishnaveni
W/o Late Nagarajan
Both residing at
2/17, Pillaiyar kovil street,
Punjailakkapuram,
Erode-638002.

.....Respondents/Borrower

This petition coming up for final hearing before this Court on **19.08.2025** in the presence of **Mr.C.Gopalakrishnan**, 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

1.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 Can Fin Homes Ltd.,64/5, GRDI Complex,Second Floor, Perundurai Road, had extended the financial assistant/ facilitated in the account of the Respondents to the tune of **Rs.20,00,000/-**. 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 **Perundurai Taluk, Perundurai Village Erode District**. 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 **30.04.2024**. Subsequently, the petitioner's Bank initiated recovery proceedings under the provisions of SARFAESI Act by issuing notice u/s.13(2) to them on **19.02.2025**. The respondents have not yet received above said notice despite which the respondents did not pay any amount. The petitioner also took symbolic possession of the schedule property on **24.04.2025** and issued possession notice to the respondent and also published it in two leading Newspapers on **26.04.2025**. As on **19.02.2025**, **Rs.26,95,248/-** 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

Sl. No.	Date	Description of Documents	Nature
1.	03.10.2024	Authorization Letter of authorized officer	Xerox Copy
2.	28.11.2019	Loan application	Xerox Copy
3.	03.12.2019	Loan sanction Communication letter	Xerox Copy
4.	03.12.2019	Loan Agreement	Xerox Copy
5.	12.12.2019	Sale Deed in Favour of 1st Respondents M.Nagarajan & 2nd Respondent N.Krishnaveni (Doc.No. 7305/2019)	Xerox Copy
6.	13.12.2019	Memorandum of Deposit of title deed is executed by the 1st & 2nd respondents (Doc.No.7342/2019)	Xerox Copy
7.	19.02.2025	Demand notice U/s.13(2) of SARFAESI Act, sent to respondents	Xerox Copy
8.	19.02.2024	Postal Receipt for Demand notice	Xerox Copy
9.	22.02.2025	Returned Postal Cover with postal track consignment for Demand notice	Xerox Copy
10.	22.02.2025	Paper publication of Demand notice in Tamil& English	Xerox Copy
11.	24.04.2025	Possession notice U/s.13/(4) of Sarfaesi Act	Xerox Copy
12.	24.04.2025	The Possession photo with GPS location	Xerox Copy
13.	25.04.2025	Postal Receipt for Possession notice	Xerox Copy
14.	08.05.2025	Returned Postal Cover for Possession notice	Xerox Copy
15.	26.04.2025	Paper publication of possession notice in Tamil& English	Xerox Copy
16.	13.05.2025	Encumbrance Certificate	Original Online Copy
17.	08.05.2025	Foreclosure statement with loan account statement	Original
18.	06.05.2025	Postal Track Consignment for Possession notice Postal Receipt 2	Xerox Copy

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 also 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 office at Perundurai Road Erode** and the petition mentioned property is situated within limit of **Perundurai Taluk, Perundurai Village Erode District**. 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.

FULL DESCRIPTION OF THE IMMOVABLE PROPERTY

(Description of secured asset in respect of which security interest has been created)

Erode RD, Perundurai SRD, Perundurai Taluk, Perundurai Village, Old S.F.Nos.394&402 in

R.S.No.416/1 Punjai Hec.0.73.5

R.S.No.416/2 Punjai Hec.2.03.0

R.S.No.416/3 Punjai Hec. 1.70.0

R.S.No.416/4 Punjai Hec.0.05.5

R.S.No.420/1 Punjai Hec.0.43.0

R.S.No.420/2 Punjai Hec.0.76.0

Totalling Punjai Hec.5.71.0 in this land have been divided into house sites and laid roads etc., after obtained an approval form the Government of Tamilnadu under approval No.68/2008 (D.T.C.P) and calling as "**Lakshmi Nagar**" in this layout, the schedule Property bearing **site No.15** is bounded by:

East of Site No.14

West of eastern portion of site No. 15

North of 30 feet width East-West road,

South of site No.33

Measurements,

East-West on both sides 55 feet

North-South both sides 23.3 feet

Within the said measurements an extent of 1281½ sq.ft or 119.05 sq.mtr., of vacant site and rights to use the common roads mentioned in Gift Deed in Doc Regn.No.2430/2009 and rights to use the other common roads etc.

The schedule property is lies in R.S.No.416/2A and situated within the limits of Perundurai Town Panchayat.

In the result, this application is allowed, thereby appointing **Mr.N.K Prabhakaran, MS.No. 1025/2018**, 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/- is fixed as remuneration for the said Advocate Commissioner. The petitioner shall pay the said remuneration directly to the Commissioner at the time of filing of report. Report by **22.10.2025**.

This order dictated directly to the typist, typed by him, corrected and pronounced by me in the open court, on this the **15st day of September 2025**.


15/9/25

**CHIEF JUDICIAL MAGISTRATE,
ERODE.**