

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, ERODE.

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

Tuesday, the 10th day of March 2026

CMP. No. 3231 of 2025

(CNR.No.TNED04-008480-2025)

Cholamandalam Investment and Finance Company Ltd,
Represented by the Authorized
Branch Legal and Recovery Manager,

Thiru.U.Ranithsamy, S/o.Udhayakumar, aged 25 years

.....Petitioner

//VS//

1. Shri. M.ManojKumar, S/o.Muthuraman,

2. Shri. M.Logamani, W/o. Muthuraman,

.....Respondents

This petition coming up for final hearing before this Court on **25.02.2026** in the presence of **Mr.M.Dhinakaran**, 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 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), seeking assistance of this Court for taking physical possession of the secured assets.

2. The case of the petitioner is that Cholamandalam Investment and Finance Company Ltd, Erode Branch had extended the following financial assistance to the respondents to the tune of Rs.26,00,000/-. The respondents executed the necessary loan documents and security agreements, thereby creating security interest in respect of the immovable properties described in the petition, situated within the limits of Anthiyur Village, Anthiyur Taluk, Erode District.

3. Since the respondents defaulted in repayment of the aforesaid credit facilities, the petitioner classified the loan account as NPA on 10.04.2025. Thereafter, proceedings under the SARFAESI Act were initiated by issuing notice under Section 13(2) on 16.04.2025. The respondents received the said notice. Despite issuance of the statutory demand notice, no payment was made. The petitioner then took symbolic possession of the schedule property on 23.06.2025 and issued a possession notice to the respondents, which was also published in two leading newspapers on 28.06.2025. A total sum of Rs.26,74,951/- remains due and payable. The petitioner submits that physical possession of the property could not be taken as the respondents resisted, and unless such possession is handed over, the petitioner will be put to great loss. Hence, the present petition.

4. The question that arises for consideration is whether the petition filed by the petitioner under Section 14 of the SARFAESI Act deserves to be allowed?

5. I have heard the Learned Counsel for the Petitioner. On perusal of the affidavit, petition and the documents filed, the following particulars emerge:

- The petitioner has produced copies of the loan documents, title deeds, demand notice, postal acknowledgments, possession notice, and newspaper publications.
- The materials establish that the schedule mentioned properties were mortgaged.
- This petition has been filed after expiry of 60 days from the date of receipt of notice issued under Section 13(2) of the Act.
- The respondent is not entitled to any further notice under the Act from this Court.

- The petitioner Bank has its Registered office at Chennai, Branch at Erode and the property is situated within the jurisdiction of this Court.
- The necessary affidavit of the authorised officer of the secured creditor has also been filed, affirming compliance with the provisions of the SARFAESI Act and Rules.

6. Further to clarify the discrepancy in the 'unit' of area mentioned in the Memorandum of deposit of title Deed, the petitioner has examined its Credit Manager as PW1. PW1 has deposed that the respondent has agreed to mortgage the property, he purchased vide Document No. 4285/2020 and has deposited the said title deed and obtained loan. Due to typhographical error in the discription of the property in the mortgage deed, the unit of the total extent is wrongly noted as punjai acre 0.028 instead of punjai hectare 0.02.8. On verification of the Memorandum Of title Deed its found that the borrower had deposited the original sale deed which was registered as Document No. 4285/2025 before the Anthiyur SRO. The discription of property in the said sale deed shows that 0.02.8 punjai hectare equal to 0.06 1/2 punjai acre was purchased by the borrower. This document has been mortgaged by the petitioner to avail the credit facility and this shows that the borrower had mortgaged the property purchased vide the above mentioned sale deed in its entirety. Therefore it is clearly understood that the error found in the unit of area mention in the mortgaged deed and in the petition schedule is clearly a typhographical error.

7. On satisfaction of the above, this Court is of the view that there exists a compelling situation for the petitioner to realise the loan amount by taking possession of the secured assets. For such purpose, it is just and necessary to render assistance to the secured creditor by appointing a Commissioner for identification of the secured assets and for taking possession thereof, with liberty to seek police assistance in case of resistance.

8. The Hon'ble Supreme Court in **Authorised Officer, Indian Bank v. D. Visalakshi & Anr., (2019) 20 SCC 47, in Para 33**, has explained that an enquiry under Section 14 is a sui generis enquiry, essentially administrative or executive in nature, confined to verification of the affidavit and documents filed by the secured creditor. It does not involve adjudication of inter se rights of the parties or determination of allegations of fraud. In light of these principles, it is clear that the provisions of the SARFAESI Act have been complied with.

9. Considering all aspects, this Court is inclined to allow the petition by appointing an Advocate Commissioner to take physical possession of the secured asset.

In the result, this application is allowed. **Mr.M.P.Senthilkumar, Advocate (Enrollment No.110/2019)**, is appointed as Advocate Commissioner, with the following directions:

- i. To prepare an inventory of the secured assets;
- ii. To take physical possession of the property and hand it over immediately to the petitioner/secured creditor;
- iii. If necessary, break open the lock if any and to seek the assistance of Police and Revenue Officials in executing this warrant.

iv. The remuneration of the Advocate Commissioner is fixed at Rs.20,000/-, to be paid by the petitioner directly to the Advocate Commissioner, at the time of filing of the report. The Commissioner shall file his report on or before 16.04.2026.

This order dictated directly to the Typist, typed by he, corrected and pronounced by me in the open court, on this the 10th day of March 2026.

**CHIEF JUDICIAL MAGISTRATE,
ERODE.**