<u>IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, KARUR</u>

PRESENT: THIRU.N.S.JAYAPRAKASH,B.Sc.,B.L.,

CHIEF JUDICIAL MAGISTRATE, KARUR

Tuesday, the 28th day of October 2025

<u>Cr.M.P.No.2913/2025</u>

J.M.Financial Asset Reconstruction Company Ltd.,

Registered Office 7 th Floor, Cnergy,

Appasaheb Marathe Marg, Prabhadevi, Mumbai.

Represented By its Authorized Officer

M.Sinthuja Pillai. **. . . Petitioner**

/Vs/

1) Mr.R.Kuppusamy, S/o. Raman,

2) Mrs. K.Vasanthi W/o. Kuppusamy,

3) Mr.S.Ramesh **…Respondents**

This petition is coming for final hearing on 28.10.2025 before this court in the presence of Thiru.K.Kanagaraj,B.A.B.L., Advocate for petitioner and upon hearing petitioner side arguments, perusing affidavit, petition and other relevant documents, and having stood over for consideration till this day, this Court delivered the following

<u>ORDER:</u>

1) This petition has been filed by the petitioner for taking physical possession of secured assets under section 14 (1) and (2) of the SARFAESI ACT 2002.

2) The petitioner company is J.M.Financial Asset Reconstruction Company limited. The petitioner is duly notified as a “Financial Institution under the SARFAESI Act, 2002. The petitioner Bank is under RBI construction. M.Sinthuja Pillai, Manager is nominated as Authorized officer by the board of directors of the petitioner company. The Said copy of the Resolution passed by board of directors is filed as Document No.12.

3) The respondent No.1 and 2 are wife and Husband respectively and the respondent No.3 is co-borrower respectively and the respondent No.1 is the owner of the schedule property by the registered sale deed dated on 18.03.2013 is filed as document No.5. The respondents availed the Loan of Rs.6,73,191/- for consolidation of debts during the year 2014. The Loan application dated on 10.10.2014 is filed as document No.1. The respondents 1 and 2 are the Borrower and co borrower of the schedule mentioned properties for the loan sanctioned to them by the petitioner bank. The Loan Sanction Letter dated 11.10.2014 is filed as document No.3

4) The respondents executed loan documents in favour of the applicant's bank for the loan sanctioned to them. The Loan agreement dated on 18.10.2014 is filed as document No.2. The Respondent No.1 with an intention to create equitable mortgage deposited the title deeds with reference to the schedule property and executed a memorandum of confirmation of deposit of title deeds on 18.10.2014 which was registered as document No.1193/2014 in the SRO Chinnadarapuram is filed as document No.4.

5)The branches at various places in India do here by serve upon the following notice u/s 13(2) of the Securitisation and Reconstruction of Financial assets and Enforcement of Security Interest Act, 2002. The Ministry of corporate affairs is filed as document No.13 and assignment agreement dated on 29.03.2023 is filed as document No.14.

6) The respondents failed to repay the loan installment as agreed by them in spite of several demands made by the petitioner bank and the account has become NPA on 30.06.2021. The outstanding amount of Rs.8,21,710/- as on 30.04.2023 from the respondents. A notice under sec.13(2) of the above act was issued on 13.06.2023 is filed as document No.6. The above notice was sent to the respondents through registered post on 22.07.2023. The respondents received the above notice on 26.07.2023. The Paper publication was published 29.07.2023 in Tamil (Dinamani) and English (The New India Express) Daily News Papers is filed as document No.7. Even there after the respondents did not settle the loan account.

7) The respondents refused to hand over the possession of the scheduled mentioned property to the petitioner, Hence, the Authorized Officer had taken only Symbolic possession on 15.02.2025 by affixing the notice in schedule of property and the above possession notice was sent to the respondents through registered – post on 25.02.2025 is filed as document No.8. The Paper publication was published on 21.02.2025 in Tamil(Dinakaran) and English(Business Standard) News Paper is filed as document No.8 and Encumbrance Certificated is filed in this petition is filed as

document No.10. The Statement of the account is filed as document No.11.

8) Hence this petition filed under section 14 of Sarfeasi Act, to take physical possession of the secured asset more particularly described in the schedule hereunder and handover the possession thereof to the authorized Officer of the Petitioner Bank.

9) Now the point for consideration is

Whether the petition under sec.14 of SARFAESI ACT is to be allowed or not?

POINT:-

10) Heard the counsel for the petitioner. Records perused. Before going in to the merits of this application it is necessary to have a look on the settled position of law on the subject. Power of this court as designated court under section 14 of SARFAESI Act 2002 is clearly explained by the latest decision of Apex Court in **Balkrishna Rama Tarle Dead Through Lrs vs Phoenix Arc Private Limited on 26 September, 2022**

11)*"9. Thus, in view of the scheme of the SARFAESI Act, more particularly, Section 14 of the SARFAESI Act and the nature of the powers to be exercised by learned Chief Metropolitan Magistrate/learned District Magistrate, the High Court in the impugned judgment and order has rightly observed and held that the power vested in the learned Chief Metropolitan Magistrate/learned District Magistrate is not by way of persona designata." Thus, the powers exercisable by CMM/DM under Section 14 of the SARFAESI Act are ministerial step and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. In that view of* *the matter once all the requirements under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/or with the help of an advocate appointed as Advocate Commissioner. At that stage, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets and the aggrieved party to be relegated to raise objections in the proceedings under Section 17 of the SARFAESI Act, before Debts Recovery Tribunal. Under the circumstances in the present case no error has been committed by the High Court in setting aside the order dated 27.08.2021 passed by the designated authority keeping the application pending till the secured creditor initiates the legal proceedings for eviction of the tenant cannot get the possession in an application under Section 14 of the SARFAESI Act. The High Court has rightly directed the designated authority to proceed further with the application under Section 14 of the SARFAESI Act, and to dispose of the same in accordance with the provisions of Section 14 of the SARFAESI Act".*

12) Bearing the above decision on mind now this court proceeded to consider whether the petitioner/Secured creditor had complied all formalities referred to in the provision in Section 14(1) of the SARFAESI Act. In support of the contentions of the petition, petitioner produced the copy of documents namely, Resolution passed

by board of directors, Loan application form, Sanction letter, Loan agreement, Registered Memorandum of deposit of Title deeds, statutory notice, Possession notice, Possession photos, Daily publications Tamil and English, summary of accounts, Settlement deed, Encumbrance certificate.

13) This petition had also been filed only after the expiry of 60 days from the date of receipt of notice issued under Sec.13(2) of SARFAESI Act. The respondents are not entitled to get any further notice under the Act. On perusal of above documents it is clear that the petitioner complied all formalities referred to in the proviso of section 14 of the act. The petition mentioned property is situated in **Karur** District within the jurisdiction of this court. Necessary affidavit of the Authorized officer of the Secured Creditor/Petitioner has also been 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 possession of secured assets. Thus, as a secured creditor the petitioner has right to realize the loan amount by taking necessary action to take actual possession of the secured assets. Hon'ble Apex Court in **M/s R.D. Jain and Co. vs CapitalFirst Ltd & Ors** held in

14) para *14) "As observed and held by this Court in the case of NKGSB Cooperative Bank Ltd. (supra), the step taken by the CMM/DM while taking possession of the secured assets and documents relating thereto is a ministerial step. It could be taken by the CMM/DM himself/herself or through any officer subordinate*

to him/her, including the advocate commissioner who is considered as an officer of his/her court. Section 14 does not oblige the CMM/DM to go personally and take possession of the secured assets and documents relating thereto. Thus, we reiterate that the step to be taken by the CMM/DM under Section 14 of the SARFAESI Act, is a ministerial step. While disposing of the application under Section 14 of the SARFAESI Act, no element of quasi-judicial function or application of mind would require. The Magistrate has to adjudicate and decide the correctness of the information given in the application and nothing more. Therefore, Section 14 does not involve an adjudicatory process qua points raised by the borrower against the secured creditor taking possession of secured assets".

15) In view of the above decision as the petitioner complied all the formalities referred to in the provision of section 14 of the act, he is is entitled to get a relief as prayed for in this petition and advocate commissioner has to be appointed to take possession of the below mentioned schedule property .

16) In the result, this application is allowed. Advocate Mr.L.Santhoshkumar Ms.No.8067/2021, Mobile 7639962148 is appointed as Advocate /Commissioner. He is directed to

1. 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 **Chinnadharapuram Police Station** and Revenue Officials, **VAO of Valaiyanur Village of property** for executing the warrant.

5. To break open the door if locked.

A sum of Rs.20,000/- is fixed as remuneration for the said Advocate Commissioner and that amount to be paid to Advocate Commissioner directly to Advocate Commissioner, Report by 28.11.2025.

This order was dictated by me to the Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 28th day of October 2025.

S/d- N.S.Jayaprakash
CHIEF JUDICIAL MAGISTRATE,
KARUR.

SCHEDULE OF PROPERTY

S.F.No/Site No.

Survey No.181/A4

Extent

Comprising East West on North side 28 feet

East – West on South side 28 feet

North – South on East side 73 1/2 feet

North – South on West side 73 1/2 feet

Admeasuring Total extent of 2051 sq. Ft or 190.54 sq.mtr.

Location

Karur Registration District Chinnadharapuram Sub Registration District, Karur District, Aravakurichi Taluk, Soodamani, Valaiyanur Village, S.F.No.181/A4, Hec 0.48.0=Acre.1.17, with total extent of 2051 sQ.ft (or) 190.54 sq.mtr with RCC and ACC building proposed to be constructed over the said site.

With water rights pathway rights as described in the sale deed dated 18.03.2013 (Doc.No.311/2013, Chinnadharapuram SRO) and all other easement rights thereo.

Boundaries:-

East of	: Plot of Rajendiran, S/o. Seerangan
West of	: Plot of Raman, S/o. Mangill
South of	: East – West common Street
North of	: Property of Saraswathi

S/d- N.S.Jayaprakash

CHIEF JUDICIAL MAGISTRATE,

KARUR.

Chief Judicial Magistrate Court,

Karur.

Cr.M.P.No.2913/2025

Order copy

28.10.2025