IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, KARUR

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

CHIEF JUDICIAL MAGISTRATE, KARUR

Tuesday, the 22nd day of April 2025

Cr.M.P.No.709/2025

STATE BANK OF INDIA
Kovai Road Karur Branch
Ward No.6, No.108, Selvam Towers,
Kovai Main road, Karur District – 639 002.
Represent by its Authorized officer
Mrs.Sreedevi, aged 40 years
W/o. Vengadesan. **. . . Petitioner**

/Vs/

1) M/s. Thai Moogambiga Blue Metal
2) Kathirvel Vigneshwaran
3) Muthusamy
4) Manikandan
5) Vinukarthi
6) Chellamuthu
7) Lakshmi
8) Ravi
9) Punitha **… Respondents**

This petition is coming for final hearing on 22.04.2025 before this court in the presence of Thiru.P.Saravanan 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

ORDER:

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

2) The petitioner is a Secured creditor. The petitioner bank is State Bank of India, Through the authorized officer Mrs.Sreedevi, W/o. Vengadesan having been authorized to exercise the powers vested in the bank as secured creditor under the provisions of the Securitization and reconstructions of financial assets and enforcement of security interest act,. The authorization letter is filed herewith as Doc.No.1.

3)The 6th respondent- Chellamuthu is the owner of immovable properties described hereunder as Property No.1 2nd item viz. Sale deed in favour of the 6th respondent and one Balasubramanian from palani Naicker and 7 others on 23.08.1991 under document No.2445/1991, Karur West SRO. The 6th respondent chellamuthu is the owner of immovable properties described hereunder as property No.1 1st item viz. Sale deed in favour of the 6th respondent from balasubramanian and 3 other on 10.04.2000 under document No.1510/2000, Karur West SRO. The 7th respondents lakshmi is the owner of the immovable property described hereunder as property No.2 viz. Sale deed in favour of the 7th respondent from lakshmi ammal on 04.02.2005 under document No.808/2005, Karur West SRO. The above said sale deeds are filed herewith as Doc.No.2 to 4.

4) On 06.06.2019 and 08.09.2022 the 6th and 7th respondent owner of property has mortgages the property fully described hereunder being security for repayment of Rs.3 crores by virtue of a regd. Memorandum of deposit of title deeds under Doc.No.4590/2019 and 8653/2022 SRO Karur West. The above said documents are filed herewith doc.No.5 and 6.

5) The respondents committed willful default in repayment of the said loan amount and thus the loan accounts became Non-performing asset (NPA) on 28.07.2024.

S.No.	**Loan Account No.**	**Nature of Facility**	**Liability with interest as on 28.07.2024.**
1.	38518370462	Term loan	Rs.3,09,85,943/-
2.	41261071489	Cash Credit	Rs.3,00,85,657/-
outstanding			Rs. 6,10,71,600/-

6) On 29.07.2024, the petitioner bank issued a Demand notice by Regd.post with Ack. U/s.13(2) of Sarfeasi act to all the respondents calling upon them to pay the entire outstanding balalnce of Rs.6,10,71,600/- as on 28.077.2024 with subsequent interest within 60 days from the receipt of notice by Regd. Post with ack. Due on 31.07.2024 some borrowers and guarantors received the notices and some returned and evade the serving notices.

7) Petitioner took next step of issue demand notice through both Tamil (Dinamani) and English (the new indian Express) news paper on 10.08.2024 as substituted service. Even after the notice the respondents have not raised any objection nor come forward to clear off the same. The above said demand notice and

news paper publications are filed herewith as Doc.No.7 to 10.

8) The petitioner took next recourse of issuing possession notice dt: 05.11.2024 after expiry of 60 days from the date of demand notice dt.29.07.2024 which was published in Dinamani Daily and the new Indian Express dt 10.11.2024 U/s.13(4) of Sarfeasi act. The petitioner took symbolic possession of the secured properties mentioned hereunder. The above said possession notice, symbolic possession photographs and paper publications are filed herewith as Doc.No.11 to 14. The encumbrance certificate dated 27.02.2025 pertaining to the secured asset/ schedule mentioned property for the period from 01.08.1991 to 26.02.2025 with respect to the secured assets is produced herewith. The online copy of Encumbrance certificate is also filed herewith as Doc.No.15.

9) The statement of account maintained by the petitioner bank in the name of the 1st respondents A/c.No.38518370462 period from 01.06.2019 to 27.02.2025 and A/c.No. 41261071489 period from 01.09.2022 to 27.02.2025. The true copies of the above said statements are filed herewith the Doc.No.16 and 17. The physical possessions of the secured assets properties have not yet been handed over by the borrowers respondents so far. Hence, physical possession of the said assets properties are required to be taken by the secured creditor applicant since the secured assets referred to in the said notice is required to be held and transferred by the applicant under the provision of the said act.

10) 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.

11) Now the point for consideration is

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

POINT:-

12) 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**

13)*"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".*

14) 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, Authorization letter, Sale deeds, MODT, Demand notice, Possession notice, Served postal Acknowledgments and Returned postal covers, Tamil and English Daily publications, Encumbrance certificate, Statement of accounts.

15) 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

16) 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".

17) 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 .

18) In the result, this application is allowed. Advocate Ms.R.Manimegalai., B.A.,L.L.B., Ms.No.1821/2022, Ph.No.9025475882 is appointed as Advocate /Commissioner. She 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 **Thanthonimalai Police Station** and Revenue Officials, **VAO of Karuppampalayam Village for the Ist distribution of property and Appipalayam Village for the II nd Distribution of property** for executing the warrant.
5. To break open the door if locked.

A sum of Rs.15,000/- is fixed as remuneration for the said Advocate Commissioner and that amount to be paid to Advocate Commissioner directly to Advocate Commissioner, Report by 16.05.2025.

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 22nd day of April 2025.

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

DESCRIPTION OF PROPERTY -I

Undermentioned properties belonged to 6th respondent – Chellamuthu

(PAGE NO.5,6 & 8 IN THE MODT DATED:08.09.2022)

1st ITEM

Survey No : 176/1

Patta No. : 238

Extent : Ac.3.58 cents

Boundaries:-

North by : S.F.No.177

East by : S.F.No.170

West by : North – South way in S.F.No.177/2

South by : Ac.0.33-1/4 cents sold to S.Lakshmi & S.F.No.174

2nd ITEM

Survey No : 177/3

Extent : Ac.2.00 (as per patta No.238)

Boundaries:-

North by : East – West way in S.F.No.177/2

East by : Land of Palani Naicker

West by : Noth – South way in S.F.No.177/2

South by : 1st Item

With right of way in east – west, north – south way in S.F.No.177/2 (as per joint patta 397), Both the items enjoyed as one block with a house construction put up thereon bearing door no.4/67.

Location / Landmarks/ : Karuppampalayam village coming under within the limits of Karur west S.R.O. of Karur Registration District.

Name of the area : Karuppampalayam Village coming undered within the limits of Karur west S.R.O of Karur.

Registration District

City / District : Karur.

ABSTRACT

Karuppampalayam village coming under within the limits of Karur West S.R.O. of Karur Registration District.

1st Item : Ac.3.58 cents

2nd Item : Ac.2.00 cents

Totalling : Ac.5.58 cents

Description of Property – II

Survey Nos : 421/2, 422/1B

Patta No. : 865 (Joint patta)

Out of Hec 06.35.50 (Ac 15.70 cents) comprised of Hec.00.31.00 in S.F.No.421/2 and Ac.06.04.50 in S.F.No.422/1B

Extent : Ac.0.70 cents

Boundaries:-

North by : East – West way

East by : North – South way in S.F.No.422/1B and that of lands of R.Chellamuthu in S.F.No.176 & 177

West by : lands with an extent of Ac.15.00 sold to paimala and others

South by : East – West way (S.F.No.427)

Location / Landmarks/ : Appipalayam Village situate within the limits of Karur West S.R.O. coming under Karur Regsitration District.

Name of the Area : Appipalayam village situate within the limits of karur West S.R.O. coming under karur Registration District.

City / District : Karur

ABSTRACT

Land out of Hec.06.35.50 (Ac.15.70 cents) comprised of

Hec.00.31.00 in S.F.No.421/2 and Ac.06.04.50 in S.F.No.422/1B

of Appipalayam Village situate within the limits of Karur

West S.R.O coming under Karur Registration District. **: Ac.0.70 cents**

Sd/- N.S.Jayaprakash

CHIEF JUDICIAL MAGISTRATE,
KARUR.