IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, KARUR

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

CHIEF JUDICIAL MAGISTRATE, KARUR

Saturday, the 19th day of July 2025

Cr.M.P.No.1277/2025

M/s. IDFC first Bank ltd.,
(Formerly Known as IDFC Bank ltd.,)
KRM Tower, 7th floor, No.1, Harrington Road,
Chetpet, Chennai -60031.
Having Branch Kulithalai, karur.
Represented by its authorized signatory,
Mr.G.Naveen, S/o. Gunasekaran **. . . Petitioner**

/Vs/

1) Mr.Dinakaran Muthaiya,
2) Sathiyakala Dinakaran **… Respondents**

This petition is coming for final hearing on 19.07.2025 before this court in the presence of Thiru.T.N.Karthikeyan 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 IDFC first Bank ltd., (formerly known as IDFC Bank ltd) is a banking company having Authorized officer G.Naveen. The said copy of the Authorization letter of the IDFC first bank ltd dated on 10.05.2023 is herewith filed as Doc.No.1.

3) All the respondents submitted the loan application form duly filed up and signed by them to the petitioner bank dated on 30.03.2022. The said mortgage loan application form herewith filed as Doc.No.2. the petitioner bank sanctioned loan against property facility for a sum of Rs.20,00,000/- in vide loan account No. 69687703, to the respondents by sanction letter dated on 30.03.2022. The said sanction letter is herewith filed as Doc.No.3.

4) The petitioner further submits that, the respondents executed the loan against for sum of Rs.20,00,000/- dated on 31.03.2022, to and in favour of the petitioner bank further the 1st respondent was executed a registered memorandum of deposit of title deeds in vide doc.No.1283/2022 dated on 30.03.2022 to the schedule mentioned property. The said loan against property agreement dated on 31.03.2022 and Registered Memorandum of deposit of title deeds dated on 30.03.2022 are produced herewith as Doc.Nos. 4 and 5 Respectively.

5) On 03.11.2024 the loan facilities extended to the respondents was classified as “non performing asset” within the meaning of section. 2(o) of the act in accordance with directions/ guidelines issued by the reserve bank of india. The petitioner bank had issued statutory notice under section 13(2) of the sarfaesi act on

30.11.2024 interalia calling upon the respondents to repay a sum of Rs.17,48,043.59/- in vide above said loan account number, as on 27.11.2024 for discharge their liabilities in full within 60 days from the date of statutory notice along with its postal receipts, its postal tracker and demand notice affixed photo copy are filed herewith as Doc.No.6.

6) Statutory notice had published in the daily publications for the The new indian express and Dinamani in vernacular language on 20.12.2024. The copy of paper publications are produced herewith as Doc.No.7 and 8.The petitioner bank had issued symbolic possession notice under section 13(4) of the act on 26.02.2025 and the said symbolic possession notice along with its postal receipts along with its postal trackers and photos are filed herewith as Doc.No.9. This notice published to the daily publications namely the New Indian Express and Dinamani in vernacular language on 03.03.2025. The copy of paper publications are filed herewith as doc.NO.10 and 11 respectively.

7) The sum of due to the petitioner from the respondents herein are Rs.17,55,343.31/- in vide loan account No. 40383034, as on 09.04.2025 under the aforesaid loan accounts as per the statement of accounts maintained by the petitioner bank in its regular course of business and the respondents herein are liable to pay the said sum along with subsequent interest at contractual with penal interest, charges and costs etc., The statement of account and Foreclosure are produced herewith as doc.No.12.

8) The petition release deed of the schedule mentioned properties in vide deed No.1041/2022 is produced herewith as doc.Nos. 13. The encumbrance certificate for the schedule mentioned properties is produced herewith as Doc.No.14.

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, Authorization letter,

Loan application, Sanction letter, Loan agreement, MODT, Demand notice along with postal receipt and postal tracker, Possession notice along with postal receipt and postal tracker, Daily publications Tamil and English, Statement of accounts and foreclosure, Partition release 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 Ms.R.Nivetha Ms.No.4475/2023, Ph.No.9344527833 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 **Kulithalai Police Station** and Revenue Officials, **VAO of Housing Society colony, Periyar Nagar 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 14.08.2025.

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 19th day of July 2025.

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

SCHEDULE OF PROPERTIES

All the piece and parcel of land situated at Karur District, Karur Registration District, Kulithalai Taluk, Kulithalai Sub Registration district, Kulithalai co-operative Housing society colony, Periyar nagar, Manaivari patta No.45, Nathan (Old survey No.66/1D-P) New survey No.66/1D an extent of Ac.6.00 in which

North by	:	Plot NO.77,
South by	:	East to West road,
East by	:	Plot no.75,
West by	:	south to north road.

Within this East to West on the Northern side 59 ft., on the southern side 54 ft., south to North on the western side 34.06 Ft., on the eastern side 39.06 Ft., totally 2090.05 ½ Sq.ft., of plot with building and together with usual pathway rights relating thereto.

(The property lies in plot No.76 an extent of 2318 sq.ft.,) as per town survey land register the property comprised in Survey No.66/1D-P an extent of 216 Sq.Mt., Door Nos. 76,76/1, 76/2, 76/3. T.S.No.63, Block NO.20, Ward D-Kulithalai.

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