

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
MAYILADUTHURAI.**

Present :

**Thiru. M.K. MAYAKRISHNAN, B.B.A., B.L.,
Chief Judicial Magistrate.**

Friday, the 28th day of June, 2024.

Criminal Miscellaneous Petition No.1981/2024.

Applicant/
Secured Creditor : Axis Bank,
represented by its Senior Manager Mr. Kannan,
No.144, Mahadhana Street,
Mayiladuthurai,
Tamil Nadu – 631 501.

Respondents : 1) Mr. Muniyandi,
S/o. Chinnathambi,
No.153B, Kondal B.C. Theru,
Vilivandallore Ward – 3,
Kangamputhur,
Nagapattinam – 609 203.

2) Mrs. R. Indirani,
W/o. Rajendiran,
No.8, Kappur,
Mayiladuthurai (TK),
Nagapattinam – 609 404.

The Petition was taken on file 21.05.2024 and coming on 26.06.2024 for final hearing before this court in the presence of S. Nithiyadevi the learned counsel for the Applicant/secured creditor and upon hearing the arguments and on perusal records this court passed the following

ORDER

1. The Applicant/Secured creditor filed this application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.[SARFAESI Act] along with an affidavit duly affirmed by the authorized officer of the Applicant/secured creditor seeking assistance of this court to take possession of the secured asset.

2. Heard the learned counsel for the Applicant/secured creditor and the affidavit of authorized officer of the Applicant/secured creditor and records perused.

3. It is the contentions of the authorised officer, that the Applicant/Secured creditor sanctioned a loan in favour of the Respondents/borrower and the said loan was secured by a registered deed created by borrower in favour of Applicant/Secured creditor. The Respondents/borrower committed default in repayment of the said loan and the loan account was assessed as a Non - Performing Asset (NPA). The Applicant/Secured creditor bank issued a notice under section 13 (2) of the

SARFAESI Act calling upon Respondents/borrower to pay the amount. A public notice was also issued by the Applicant/Secured creditor in newspapers. However, the Respondents/borrower did not pay the loan amount and thereafter, the Applicant/Secured creditor filed this application seeking assistance of the court, for taking physical possession of the secured assets.

4. It is settled law, that the power of the court described in Section 14 of the SARFAESI Act is ministerial in nature and there is no adjudicatory process and notice to the borrowers is not necessary. Here in this petition, the provisions of SARFAESI Act and the rules made there under had been complied with properly and this court is satisfied with the contents of the affidavit filed by the authorized officer of the Applicant/Secured creditor and also the ingredients of Section 14 of the SARFAESI Act is satisfied. Therefore, this court is inclined to allow this petition.

5. In the result, the petition is allowed and Mr. M. Arunkumar, Advocate is hereby appointed as Commissioner. The Advocate/Commissioner is directed to assist the Applicant/Secured creditor to take possession of the schedule mentioned secured assets, after taking inventory of the articles, and handover to the Applicant/Secured creditor, so as to proceed to recover the dues. The commissioner is permitted to approach the local police for assistance to obviate any untoward situation or law and order problem at the site while taking over possession. The commissioner shall prepare a detailed report for the entire proceedings and the same is to be filed before

this court. The Commissioner's remuneration is fixed as Rs.10,000/- and the Applicant/Secured creditor shall pay the same directly to the Advocate/Commissioner on or before 19.07.2024 and file memo to that effect. For Commissioner report call by 02.08.2024.

Dictated to Typist, typed by her directly in computer and corrected and pronounced by me in the open court, this the 28th day of June 2024.

Sd/- M.K. Mayakrishnan,
Chief Judicial Magistrate,
Mayiladuthurai.

SCHEDULE OF SECURED ASSETS

Description of Property :-

In Nagapattinam District, Mayiladuthurai registration District, Mayiladuthurai Joint No.2 Sub Registration District, Mayiladuthurai Taluk, Villiyanallur Revenue Village, Kondal Hamlet, in Throubathi Amman Koil Street, Punjai Ground site & RCC house building therein, bearing Door No. 153B/4.

R.S.No	Classification	Extent	Boundaries
449/3A (Old Survey No.449/3)	Ground site & RCC house building	9 cents	East of Mohamed Jackartya house & Backyard, West of Chinnathambi house & Backyard, South Throupathi Amman temple, North of Street.

Sd/- M.K. Mayakrishnan,
Chief Judicial Magistrate,
Mayiladuthurai.