IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, NAGAPATTINAM.
PRESENT: THIRU. G. KRISHNAN, B.A., LL.B.,
Chief Judicial Magistrate, Nagapattinam.
Thursday the 02nd day of July 2026.
Crl.M.P.No.429/2026

M/s. EQUITAS SMALL FINANCE BANK LTD., Represented by its Area Receivable Manager, Mr. PARTHASARATHY R, 4th Floor, Phase -II, Spencer Plaza, No.769, Mount Road, Anna Salai, Chennai – 600 002.	..... Petitioner .
..Vs...	
1. GOWTHAMAN R, S/o. Ramamoorthy, No.196, North Street, Srikandanatham, Agarakadambanur, Nagapattinam 611 117.	
2. ANANTHANAYAGI R, W/o. Ramamoorthy, No.196, North Street, Srikandanatham, Agarakadambanur, Nagapattinam 611 117.	.... Respondents

.....…

This petition is coming for hearing before this day in the presence of Mr. S. R. Rajasingaravelan 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 the following:-

ORDER

This petition has been filed by the petitioner for taking possession of secured assets u/s 14 (1) & (2) of the SARFAESI ACT 2002.

2. It is the case of the petitioner that the Respondents approached the petitioner for the purpose of availing certain credit facilities viz.,

Account No.	Nature of Facility	Sanctioned Amount Rs.	Outstanding as on 17.11.2025
700008895505	Retail Loan	Rs. 2,00,000/-	Rs. 2,06,870/-

The Respondents had approached loan details above. The respondents by way of a Registered Memorandum of Deposit of Title Deeds Dated 24.06.2024 bearing Doc. No.160/2024. The said mortgaged property is secured asset in the hands of the petitioner to ensure the liability as against the respondents. The said respondents executed necessary loan documents and security agreements. The loan account became irregular as the respondents failed and neglected to repay the full liabilities availed and the Accounts was classified as a Non Performing Assets as per RBI guidelines. Hence, the petitioner's bank initiated recovery proceedings under the provisions of SARFAESI Act, 2002 by issuing statutory notice to them under Section 13(2) on 21.11.2025 and issued a Possession Notice dated 09.02.2026 under Section 13(4) of SARFAESI Act, 2002. Even after issuing notices, the respondents were not settled the outstanding dues in the account. The petitioner could not take physical possession of the property as the respondents are refusing and resisting in handing over the vacant physical possession of the property. Unless physical possession is handed over, the petitioner will be put to great loss. Hence, this petition.

3. Now. the question is that whether the petitioner filed by the petitioner u/s 14 (1) & (2) of SARFAESI Act, 2002 has to be allowed or not ?

4. Heard the counsel for the petitioner. On perusal of the records, the following particulars are emerged from the affidavit, petition and documents filed by the petitioner:-

Sl. No	**Date.**	**Procedures complied with**	**Particulars**
1	25.01.2024	Retail Loan Facilities borrowed by respondents.	Retail Loan Ac. No. 700008895505 Dated: 25.01.2024 for a sum of Rs.2,00,000/-

2		Security Interest created in respect of immovable property.	All that piece and parcel of land and Building, Comprised in New S.No.59/4 (Old S.No.59/2A2) with an extent of 872 Square feet or 2 Cent situated Agarakadambanur Village, Kilvelur Taluk, Nagapattinam District, bounded on the North by – Subbu Property, South by – Colony Street, East by – Anjali property, West by – Rethinakumar & Ramamoorthy Property. Within the Sub - Registration District of Joint I SRO, Nagapattinam and Registration District of Nagapattinam.
5	21.11.2025	Notice issued u/s 13(2) of SARFAESI Act	To the 1st and 2nd Respondents.
6	24.06.2024	Document Deposited	Memorandum of Title deed executed by the petitioner Document No.160/2024.
7	17.11.2025	Amount due	Rs.2,06,870/-

5. The petitioner has produced copy of loan documents, title deeds, notice, acknowledgment cards are established that the schedule mentioned property was mortgaged respectively. This petition also filed after the expiry of 60 days from the date of receipt of notice issued under Sec.13(2) or SARFAESI Act, 2002 by the respondent. The respondent is not entitled to any further notice under the said Act from this court. The petitioner bank is having its office at Chennai -2 and the petition mentioned properties are situated at Nagapattinam District, Kilvelur Taluk, Agarakadambanur Village within the jurisdiction of this court. Encumbrance certificate also produced by the petitioner to show that the title of the respondent is clear and valid. Necessary affidavit of the authorized officer of the Secured Creditor/Petitioner also produced, who duly affirmed that the provisions of the SARFAESI Act, 2002 and rules have been complied with. This court has satisfied about the contents of the affidavit filed for the purpose of taking the possession of secured assets. Thus, there is compelling situation arise for the petitioner to realize the loan amount by sale of transfer. For the said purpose. It is just and necessary to render

assistance to the secured creditor in taking possession of the secured assets: and in doing so, the court can appoint a commissioner for identification of the secured assets and taking possession there of and if there is any resistance ask for police assistance and take any effective steps to have possession of the secured assets taken over.

6. The Hon'ble Supreme Court also mandates the following guidelines in the Authorised Officer, Indian Bank Vs the Visalakshi and another (Civil Appeal No.6295 of 2015), dated 23.09.2019.

“.............. Thus, it is only a procedural step without any adjudication of any dispute whatsoever. The action is therefore, only an administrative order made for taking possession of the secured assets. if all other conditions are fulfilled. Having already noted that the powers exercised by the CMM and DM in terms of Section 14 of the 2002 Act are synonymous to each other and that they are not adjudicatory in nature..........…”

“....... It did notice that the authority referred to in Section 14 of the 2002 Act has no power to adjudicate upon any rights of the parties but can only render assistance to the secured creditor to recover possession ....…”

“........ The power to be exercised under Section 14 of the 2002 Act by the concerned authority is, by its very nature, nonjudicial or State's coercive power. Furthermore, the borrower or the persons claiming through borrower or for that matter likely to be affected by the proposed action being in possession of the subject property, have statutory remedy under Section 17 of the 2002 Act and / or judicial prejudice is likely to be caused to the borrower/lessee; nor is it possible to suggest that they are rendered remedy less in law. At the same time, the secured creditor who invokes the process Under Section 14 of the 2002 Act does not get any advantage much less added advantage....”

“............. It also noted that the authority after receiving such request under section 14 of the 2002 Act, was not expected to do any further scrutiny of the matter except to verify from the secured creditor whether notice under Section 13(2) of the Act has already been given or not and whether the secured asset is located within his jurisdiction. There is no adjudication of any kind at this stage. The Court also noticed in paragraph 23 of the reported judgment that after amendment of Section 14 of the 2002 Act, by inserting first proviso therein, the designated authority has to satisfy itself only with regard to the matters mentioned in clauses (i) to (ix).........” From the above documents produced by the petitioner and in view of the principles laid down, it is clear that the provisions of SARFAESI Act, 2002 had been complied with. Considering all aspects, this court is of the view tat an appropriate direction to prepare inventory and to take physical possession of the secured asset shall be passed in favour of the petitioner and as such, this court is inclined to allow this application.

7. In the result, this application is allowed, thereby appointing Mr. P. Arivalagan Advocate M.S. No.3340/2013 (Cell No.95241 43167) as an Advocate Commissioner.

i. To inspect the petition mentioned property;

ii. Take inventories and prepare panchanama

iii. Take physical possession and immediately hand over to the petitioner/ secured creditor and take photos and

iv. If necessary, take assistance of Police and Revenue Officials in executing the warrant.

v. And, the Inspector of Police, Kilvelur Police station is hereby directed to assist the advocate commissioner in exercising the warrant and if the petition mentioned property if found in door locked condition, the advocate commissioner is hereby authorised to break open the lock in the petition mentioned property and the

Inspector of police, Kilvelur is hereby directed to assist the advocate commissioner in this regard.

8. A sum of Rs.30,000/- is fixed as remuneration for the said Advocate Commissioner. The petitioner shall deposit the said remuneration into the court within 7 days in a form of demand draft in the name of advocate commissioner. After executing the warrant and filing her report, the Advocate Commissioner is entitled to get the said remuneration from the court by filing the memo and the advocate commissioner shall file her report by **03.08.2026**.

9. The Inspector of Police, Kilvelur is hereby directed to assist the advocate commissioner to break open the lock in the petition mentioned premises and to inspect the petition mentioned property and to take physical possession of the petition mentioned properties.

Copy of this order is also to be communicated to the Superintendent of Police, Nagapattinam and to the Inspector of Police, Kilvelur for necessary action.

This order dictated directly to the Steno-Typist typed by him corrected and pronounced by me in the open court, this Thursday the 02nd day July 2026.

G KRISHNAN Digitally signed by G KRISHNAN
Date: 2026.07.02 17:20:19 +0530
CHIEF JUDICIAL MAGISTRATE,
NAGAPATTINAM.