

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE PERAMBALUR

**Present: Thiru. K. Muralitharakannan, B.A., B.L.,
Chief Judicial Magistrate,
Perambalur.**

Friday, this the 12th Day of December 2025

**Crl.M.P. No.1899 / 2025
CNR No. TNPB02-002356-2025**

HINDUJA HOUSING FINNACE LIMITED,
No.27-A, Developed Industiral Estate,
Guindy, Chennai – 600 032.
Rep. By its Authorized Officer

..... Petitioner/Secured Creditor

/Vs/

1. Mr. VARADHARAJ SR
S/o. MR RAMASAMY,

..... Respondent/ Borrower

2. Mrs. DHANALAKSHMI V,
W/o. MR. VARADHARAJ SR,
both are residing at No.7A/11C, New MG Puram,
Perambalur – 621212.

..... Respondent/Co Applicant

This petition filed by the petitioner's bank U/s. 14 of SARFAESI Act is coming on hearing before this court in the presence of Thiru. R. Karthick Advocate for the petitioner and upon hearing arguments and upon perusing the case records and having stood over for consideration till this day, this court passed the following:-

ORDER

01. The petition has been filed U/s. 14 of SARFAESI Act 2002 for appointment of Advocate Commissioner to take physical possession of the secured properties, which

are described in the petition and handing over the same to the petitioner's authorized signatory.

02. As per the affidavit and petition filed by the petitioner the 1st respondent is a borrower and 2nd respondent is a Co-borrower. The 1st and 2nd respondents approached the petitioner bank to loan of Rs.20,00,000/- and as per the request of the 1st & 2nd respondents, the petitioner's bank as per Document No.4 loan application and Document No.5 sanction letter of the loan amount. The 1st respondent executed registered memorandum of deposit of title deed, dated: 09.02.2017 (Document No.8). The 1st respondent has created an equitable mortgage of his property by way of producing the sale deed dated: 09.02.2017 (Document No.7) in favour of the petitioner's bank in respect of petition mentioned property. Subsequently the respondents 1 and 2 had approached the petitioner for enhancement of the loan Rs.4,09,234/- It is further submitted that the respondents have not repaid the loan amount and committed default in repayment of principal and interest. Hence, the petitioner bank classified the loan account as "Non - Performing Asset" and issued demand notice U/s. 13 (2) of SARFAESI Act on 11.03.2024 and in addition to that demand notice, petitioner's bank also published the said notice in a Times of India of English and The Hindu Tamil on 24.03.2024. The copy of demand notice, paper publication and Possession notice are produced as document Nos.9, 11, & 12. It is further submitted that inspite of said notice, respondents did not make any repayment nor given any reply or objection U/s.13(3A) of the Act. The statement of account was produced as document Nos. 15,16. It is further case of the petitioner that even after the notice, the respondents not settled the dues and refuse to hand over the possession of the property, hence the petitioner bank has presented this application U/s 14 of the SARFAESI Act.

03. Point for Consideration :-

1. Whether the petitioner's bank has complied the mandatory requirements under the SARFAESI Act.?

2. If so whether the petitioner's bank is entitled to take physical possession of the schedule mentioned property as prayed for?

04. Heard. Affidavit and documents perused.

05. The petitioner bank is providing financial facilities to his customers on various heads like home loan mortgage loan etc,. The counsel appearing for the petitioner would submit that the 1st & 2nd respondent's has borrowed loan of Rs.20,00,000/- and executed necessary documents including equitable mortgage of their property by way of producing the sale deed dated:09.02.2017 (Document No.7). Further the 1st respondent executed registered memorandum of deposit of title deed, dated:09.02.2017. (Document No.8) in favour of the petitioner bank in respect of petition mentioned property. Subsequently the respondents 1 and 2 had approached the petitioner for enhancement of the loan Rs.4,09,234/- It is further argued that the 2nd respondent is the co-borrower and both the respondents have failed to settle the loan amount and hand over the physical possession of the property to the petitioner. It is also argued that unless the possession of property mentioned in the petition schedule is taken by the petitioner, the loan could not be recovered from the respondents.

06. The documents filed by the petitioner's bank would support the allegations made in the affidavit as well as petition. The **document No.15 & 16** statement of accounts would shows that a sum of Rs.27,12,977/- is still outstanding from the respondents. For repayment of the loan amount the 1st respondent executed registered memorandum of deposit of title deed, 09.02.2017. Further the petitioner's bank

classified the loan account as "Non - Performing Asset" and issued demand notice U/s. 13 (2) of SARFAESI Act on 11.03.2024 and in addition to the demand notice, petitioner bank also published the said notice in The Times of India English and The Hindu on 24.03.2024. The copy of demand notice, paper publication and possession notice are produced as document No.9, 11 & 12.

07. The demand notice addressed to the borrower and co-borrower is duly served. The Acknowledgement cards were annexed by the petitioner would shows that he sent the demand notice to the principal borrower and co-borrower and published the said notice in both Tamil and English Daily news papers. Therefore there is a proper compliance U/s.13 (2) of SARFAESI ACT. Since, the petitioner's bank had complied the conditions stipulated in the SARFAESI Act and this petition is filed only after expiry of statutory period, to collect the loan outstanding amount from the respondents, the petitioner is entitled to take physical possession of the schedule mentioned property. Therefore, this court is inclined to appoint Advocate commissioner to assist the petitioner to taking physical possession of the schedule mentioned property.

08. In the result, the petition is allowed and **Mr. C. Karuppaiah**, Advocate appointed as Advocate Commissioner and his remuneration is fixed at Rs.15,000/-. The remuneration amount to be paid by the petitioner's bank directly to the Advocate Commissioner and a memo to that effect to be filed in this court. The Advocate Commissioner, is directed to assist the petitioner's bank for taking physical possession of the petition mentioned property. If necessary the Advocate Commissioner is permitted to take assistance from jurisdictional police for taking possession of the property. Further the Advocate commissioner is directed to take list of articles, if any available in the said property and after getting due acknowledgment

handover the same to the respondents and file a detailed report within 3 weeks in this court. For reporting the payment of remuneration to Advocate Commissioner Call the application on 02.01.2026.

Dictated to the Steno - Typist directly typed by him, corrected and pronounced by me in the open court on this the 12th Day of December 2025.

**Chief Judicial Magistrate
Perambalur.**

Order CJM Court, Perambalur.	
Cr.M.P.No.	1899/2025
Dated	12.12.2025