

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE PERAMBALUR

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

Tuesday, this the 10th Day of March 2026

**CrI.M.P. No.139/2026
CNR No.TNPB02-004144-2025**

CHOLAMANDALAM INVESTMENT
AND FINCANCE COMPANY LTD,
Authorized Officer, Rep by its Authorized Officer
Mr. Prasanna JLC,
S/o. Joseph,
Senior Chief Manager,
No.30, II Floor PLA Towers
Dindigul Main Road,
Ponnagar, Trichy - 620001

..... Petitioner/Secured Creditor

/Vs/

1. Murugesan. D, Age 40/2025 (Applicant)
S/o. Duraisamy,
No.3/69, Middle Road,
Siruvachur, Perambalur,
Tamil Nadu-621 113
2. Ananthi. M, Age 38/2025 (Co-Applicant)
W/o. Jahabar Sathik,
No.3/69, Middle Road,
Siruvachur, Perambalur,
Tamil Nadu-621 113
3. AYYAPAN CONSTRUCTION, (Co-Applicant)
Rep by its proprietor Murugesan,
No.3/69, Middle Road,
Siruvachur, Perambalur,
Tamil Nadu-621 113

..... Respondents/Debtors.

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. L. Raghunathan 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 Applicant the 2nd respondent and the 3rd respondent are Co-Applicants. The respondents jointly applied for the loan against property for the purpose of Business requirements vide their application dated : 23.08.2023 with one of the branches at Thanjavur as per Document No.3. The Respondents in the course of its sanction had approached the petitioner and requested for Loan Facility of Rs.45,00,000/- The petitioner had sanction an amount of Rs.29,00,000/- and as per the request of the respondents the petitioner's bank as per Document No.4 Sanction letter. The respondents has applied for additional credit facility for Business requirements of Rs.25,00,000/- vide application dated : 28.10.2024 with one of the branches at Thanjavur as per Document No.6. The petitioner had sanctioned an amount Rs.9,80,000/- to the respondents as per credit sanction memorandum Document No.7. The 1st respondent, executed registered supplementary memorandum of deposit of title deeds, dated: 07.11.2024, 07.11.2024 (Document Nos.9, 10) in favour of the petitioner's bank. The 1st respondent, had got the schedule mentioned property from

his father by way of registered settlement deed dated: 14.11.2005. (Document No.11) 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 08.7.2025 and in addition to that Possession notice, petitioner's bank also published the said notice in a Tamil and English Newspapers on 23.09.2025. The copy of demand notice, Possession notice paper and publication are produced as document Nos.14, 17 & 18. 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 No.20, 21. 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 respondent's has borrowed loans of Rs.29,00,000/- Rs.9,80,000/-and executed necessary documents including equitable mortgage of their property by way of producing the settlement deed dated:14.10.2005 (Document No.11). Further the respondents executed registered memorandum of deposit of title

deed, dated:14.09.2023, 07.11.2024 (Document Nos.9,10) in favour of the petitioner bank in respect of petition mentioned property. It is further argued that the 2nd respondent is the mortgagor 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 Nos.20,21** statement of accounts would shows that a sum of **Rs.26,85,954/- and Rs.9,58,312/-** is still outstanding from the respondents. For repayment of the loan amount the 1st respondent executed registered memorandum of deposit of title deed, dated:14.09.2023. 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 08.07.2025 and in addition to the possession notice, petitioner bank also published the said notice in a Tamil and English Newspapers on 23.09.2025. The copy of Possession notice paper and publication are produced as document Nos.16, 18, & 19.

07. The demand notice addressed to the borrower and mortgagor is duly served. The Acknowledgement cards were annexed by the petitioner would shows that he sent the demand notice to the principal borrower and mortgagor 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. K. Dineshkumar**, 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 24.03.2026

Dictated to the Steno - Typist directly typed by him, corrected and pronounced by me in the open court on this the 10th Day of March 2026.

**Chief Judicial Magistrate
Perambalur.**

Order CJM Court, Perambalur.	
Cr.M.P.No.	139/2026
Dated	10.03.2026