

In the court of the Chief Judicial Magistrate, Ranipet

Present: Thiru.A.Balakrishnan, B.B.A., L.L.B.,

Chief Judicial Magistrate, Ranipet

Wednesday, 29th day of January 2025

CrI.M.P.No.323/2024

CNR.No.TNRP020004712024

The Karur Vysya Bank Limited,
Branch office at Nungambakkam, Chennai,
Rep.by its Chief Manager/Authorised Officer
Mr.P.Sundaravarathan.

.....Petitioner/Creditor

//Vs.//

1. M/s.G.V.Annai Hospital LLP,
2. Sri.L.Balaji,
3. Mrs.B.Shanthi.

....Respondents/Debtors

Advocate for the Petitioner – **Mr.K.M.Boopathi, M.L.,**

The petition is filed by the Authorized Officer of petitioner's Bank U/s 14 of SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 seeking an order to appoint an Advocate-Commissioner to take possession of the petition mentioned property from the respondents and for other ancillary reliefs.

1.Crux of the petition averments is as follows;

The Petitioner is an Authorized Officer/Chief Manager of the petitioner's Bank. The 1st respondent is the partnership firm and the 2nd and 3rd respondents are partners of the 1st respondent's firm and they are borrowers and the personal guarantors. The respondents had approached the petitioner's Bank for financial assistance for purchase of Medical/Diagnostic Equipments and for construction of Hospital building of M/s.G.V.Annai Hospital LLP. The petitioner's Bank has also

sanctioned the loan of Rs.50,00,000/- under secured over draft facility and another loan of Rs.3,00,00,000/- under TLB facility for purchase of Medical/Diagnostic Equipments and sanctioned another loan of Rs.2,50,00,000/- under HPMA facility for construction of Hospital Building on 01.03.2016 to the respondents. The respondents had executed all necessary documents for the said loan amount and the 2nd respondent had executed a Memorandum of Deposit of Title Deeds on 01.03.2016 in favour of the petitioner's Bank and thereby mortgaged the petition mentioned properties towards the loan amount. The respondents have failed to repay the outstanding amount due to the petitioner's Bank and hence the petitioner in order to realize the outstanding loan amount had issued a registered notice to the respondents in accordance with section 13(2) of SARFAESI Act on 30.12.2017 demanding the respondents to pay the outstanding amount within 60 days from the date of the receipt of said notice. Since the respondents failed to pay the outstanding loan amount inspite of the notice under section 13(2) of SARFAESI Act, the petitioner Bank has issued a notice U/s.13(4) of the Act on 08.03.2018 to the respondents. Even then the respondents failed to discharge the outstanding loan amount and hence the petitioner's Bank had affixed the possession notice in the mortgaged properties. As on 02.12.2017 the respondents have to pay a sum of Rs.5,81,73,037.60/- towards the loan. The respondents are not vacating the schedule premises even after serving possession notice dated 08.03.2018. Hence the petition is filed seeking an order for appointment of Advocate-Commissioner to take possession of the secured assets of the respondents as per SARFAESI Act.

2. The authorized officer of the petitioner's Bank has filed proof affidavit on 20.01.2025 and he was examined as PW1. The documents produced along with the main petition are perused. It is now settled that no notice is necessary to be issued to the respondents from the court after entertaining the petition U/s 14 of SARFAESI Act. It is clear from perusal of petition averments and proof affidavits, copies of documents produced on the side of the petitioner that the

respondents had availed loan from the Petitioner's Bank by mortgaging the petition mentioned properties and even after issuance of statutory notice U/s. 13(2) of the Act the respondents did not settle the amount. The petitioner has also produced the copy of statutory notice issued to the respondents by giving 60 days time to settle the outstanding due amount. It has been further stated in the petition and proof affidavit filed by the petitioner that no proceedings or stay is pending before any other courts or forum pertaining this matter. Considering the above circumstances, this court is of the view that the Advocate-Commissioner can be appointed for taking actual possession of the petition mentioned properties from the 2nd respondent in accordance with the provisions of SARFAESI ACT.

In fine, Mr.K.Ramkumar, Advocate (Enrol.No.MS.2690/2010) is appointed as Advocate-Commissioner for the purpose to assist the petitioner in taking possession of the petition mentioned properties from the 2nd respondent after taking inventory if necessary and to hand over the same to the Petitioner as per the provisions of SARFAESI ACT. If necessary, the Commissioner may get required police protection by submitting requisition in writing to the concerned police station house officer by stating reason for the same. A sum of Rs.20,000/- is ordered as remuneration to the Advocate-Commissioner in which Rs.5,000/- has to be paid directly to the Advocate-Commissioner and the balance of Rs.15,000/- has to be paid on execution of the warrant. The Advocate-Commissioner shall execute the warrant without causing any physical harm to the inmates. Issue commission warrant to the Advocate-Commissioner. Report by 26.02.2025.

Dictated, to the typist, typed by her, corrected by me and pronounced by me in the open court this 29th day of January 2025.

Chief Judicial Magistrate,
Ranipet.