IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI.

Present: Thiru.G.Sudhagar, B.Sc.,M.L.,

CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI

Friday, the 12th day of May, 2023.

Crl.M.P. No. 3098/2023

UCO Bank,
A body Corporate constituted under banking companies
(Acquisition & Transfer of undertakings) Act, 1970,
As amended by the banking laws (amendment) Act, 1985,
Having its Head Office at,
No.10, B.T.M.Sarani, Kolakata.
And inter alia a branch office at
Karaikudi Branchi, No.56, 100 feet Road, Karaikudi - 630 001.
Represented by its Authorized Officer,
G.Ranjithkumar, (Age 36) ...**Petitioner**

/Vs/

1. P.Hema, (Age 38),
   D/o.M.S.Pandian,
   'Hema Illam' 6th Street,
   Thanthai Periyar Nagar, Burma Colony,
   Karaikudi - 630 001.

2. M.S.Pandian, (Age 71),
   S/o.M.Seeni,
   'Hema Illam' 6th Street,
   Thanthai Periyar Nagar, Burma Colony,
   Karaikudi - 630 001.

3. P.Parvathan, (Age 61),
   W/o.M.S.Pandian,
   'Hema Illam' 6th Street,
   Thanthai Periyar Nagar, Burma Colony,
   Karaikudi - 630 001. ...**Respondents**

This petition came up on 05.05.2023 for final disposal before me in the presence of Thiru.R.Kamaraj Pandian, advocate for the petitioner and the respondents exparte and upon hearing and perusing available material records and having stood over to this day for consideration, this Court delivered the following:-

ORDER

The Authorized Officer of the petitioner bank has filed this petition under section 14(1) & (2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002, for taking possession of the secured assets mentioned in the schedule of property of this petition.

2. Brief Averments in the petition as follows:

The petitioner bank is constituted under Banking Companies (Acquisition and Transfer of Undertaking Act 1970, as amended by the banking laws (amendment) Act 1985, having its Head Office at No.10, B.T.M.Sarani, Kolkata and interalia a branch office at Karaikudi Branch, No.56, 100 feet road, Karaikudi - 630 001, for early resolution Shri.G.Ranjith Kumar, The Authorized Officer/Chief Manager is an officer of the Bank/Attorney of the Bank. At the request of respondents, petitioner bank through its Karaikudi Branch had lent credit facility as per details given hereunder.

Facility	Limit
Education Term Loan	Rs.7.50 Lakhs

The said credit facility and also to secure the amount under the said facilities, the respondents executed the Education Term Loan Agreement dated 08.03.2005. Further, to secure the liability under the said facility, the respondent No.2, created mortgage over the schedule property by deposit of title deeds on 08.10.2002. But the respondents have not repaid the loan as agreed and the loan acoount become irregular. Thus the respondents account was classified as Non-performing Assets (NPA) on 06.02.2016 in accordance with the guidelines issued by the RBI. Despite repeated demands and request made by the petitioner for the repayment of loan amount, the respondents failed to repay the total outstanding. Hence, the petitioner bank issued a demand notice u/s.13(2) of the SARFAESI Act on 11.12.2019 demanding the total outstanding amount of

Rs.9,91,305/- as on 30.11.2019 and the same was received by the respondents on 16.12.2019. Since, the respondents failed to pay the amount mentioned in the section 13(2) notice even after Sixty days, the petitioner bank was constrained to issue the possession notice and the same was also published in Dinamani Tamil daily and another one in English in the New Indian Express daily on 01.03.2020 as per the Rule 8 of SARFAESI Act. The Total amount due to the petitioner bank by the respondents is Rs.14,21,796/- as on 25.02.2020. As per the books of accounts maintained by the petitioner bank in regular course and conduct of business, the respondents have to pay a sum of Rs.14,21,796/- as on 25.02.2020. Now, the petitioner has to take physical possession of the scheduel property. Hence, this petitioner prayed to appoint an Advocate-Commissioner to take actual possession of the schedule mentioned properties from the respondents and empower the Advocate-Commissioner to Break Open the premises and to forward such assets and documents to this petitioner bank and also direct the Inspector of Police, Karaikudi North Police Station to provide necessary steps and to pass such other orders.

3. As there is no specific provision under SARFAESI Act to issue any notice to the borrower before passing an order under section 14 of SARFAESI Act and also upon relying on the Division Bench Judgment of the Honourable Madras High Court in M/s Techno Builders Vs M/s Canara Bank dated 16.12.2019, this Court has dispensed with the issuance of notice to the respondents.

4. In such circumstances, to establish this case on the side of the petitioner, the Authorized Officer was examined as **P.W.1** and relied on **Exh.P.1** to **Exh.P.11** documents.

5. Now, the point for determination is, whether this petition is liable to be allowed or not ?

6. On Point :

The petitioner company is carrying on banking business falls within the scope of section 2(m) of the SARFEASI Act. On behalf of the petitioner its Authorized Officer Thiru.G.Ranjith Kumar, S/o.Ganesan, was examined as P.W1 on 05.05.2023 and Exh.P.1 to Exh.P.11 documents have been marked on the side of the petitioner. From the documents produced on side of the petitioner had seen that the respondents have applied for the loan dated 08.03.2005 with the petitioner bank for Rs.7.50 Lakhs, and accordingly it has been sanctioned. Now, the total due as on 25.02.2020 to the petitioner is Rs.14,21,796/-. Further, demanding the repayment of the said due, the petitioner has issued notice under SARFEASI Act to the respondents. Inspite of those notices, the respondents have failed to repay the same. So, from the documents produced as well as from the evidence of P.W.1, it is seen that the petitioner has taken all necessary steps as required under section 13 of the SARFEASI Act before filing this petition to recover the due from the respondents. But the respondents failed to repay the said amount. Thus, the petitioner has filed this petition to invoke the power conferred upon this court under section 14 of the SARFEASI Act. In the said circumstances, it is necessary for this court to exercise its power under section 14 of the SARFEASI Act in favour of the petitioner company. Accordingly, this petition is allowed.

Thus, the Inspector of Police, Karaikudi North Police Station is required to render all necessary assistance to the petitioner bank (secured creditor) in taking over possession of the secured assets as described in the petition mentioned schedule of property.

In the result, Advocate.Ms.S.Divya, is appointed as Advocate-Commissioner for taking possession of the Secured Assets as mentioned in the schedule of property of this petition and to hand over the same to the secured creditor/petitioner with assistance of the concerned Village Administrative Officer and the Inspector of Police, Karaikudi North Police Station. The remuneration of the Advocate Commissioner is fixed as Rs.10,000/- and shall be paid directly to the Advocate Commissioner by the petitioner/secured creditor with in a week from today. Report by 16.06.2023 .

SCHEDULE OF THE PROPERTIES

In Karaikudi Registration District, within the limits of the Sub Registrar, Joint-II Karaikudi Municipal Town, Sakkottai Union, Sankarapuram Panchayath, Sekkalaikottai, Survey No.1/1A1B1A1A2A1A1A1A Sub Division S.No.1/200, Plot Nos.2 &3 measurements East West 60 feet, North South 74 feet totally measuring about 4440 sq.ft.

Boundaries:

South of Plot Nos.1 and 6 West of North South 20 feet road, North of A16 reserved site, East of Plot Nos.4 and 5 within this residential building bearing house tax No.1512.

Dimension of the property:

North : Plot Nos.1 and 6
East : 20 feet wide North South Street
South : Plot No.A16
West : Plot Nos. 4 and 5

Dictated to the steno-typist transcribed and typed in computer by her, corrected and pronounced by me in open Court, this the 12th day of May, 2023.

//Sd/-G.Sudhagar.,//

CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.

List of Petitioner side witness:-

P.W.1 : G.Ranjith Kumar

List of Petitioner side exhibits:-

Ex.P.1	18.01.2023	:	copy of the Authorization Letter
Ex.P.2	08.10.2002	:	Mortgage by deposit of Title Deeds
Ex.P.3	11.12.2019	:	copy of the Demand Notice issued u/s.13(2) of SARFAESI Act.
Ex.P.4	-	:	Acknowledgment Card (Nos.3)
Ex.P.5	26.02.2020	:	copy of the Possession Notice issued u/s.13(4) of SARFAESI Act.
Ex.P.6	-	:	13(2) Notice (Return Cover Nos.3)
Ex.P.7	01.03.2020	:	Paper Publication in Tamil News Paper
Ex.P.8	01.03.2020	:	Paper Publication in English News Paper
Ex.P.9	-	:	Photography showing the affixture of possession notice
Ex.P.10	-	:	Statement of Account
Ex.P.11	-	:	Encumbrance Certificate

//Sd/-G.Sudhagar.,//

CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.