**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR AT KUMBAKONAM**

**Present:** Tmt. S. Mahalakshmi, B.Sc., LL.M.,
Chief Judicial Magistrate.

Tuesday, the 08th day of September 2026

**Crl.M.P. No.754/2026**

(CNR.No.TNTJ18-000709-2026)

Can Fin Homes Ltd.,
Thanjavur Branch,
Rep. by its Authorized Officer
Mr.Arun Mahalingam – Petitioner

/ Vs /

1. Mr.S.Nandhakumar, S/o.Somu – 1st Respondent / Borrower

2. Mr.R.Somu, S/o.Rengasamy – 2nd Respondent /CoBorrower

3. Mrs.G.Rathika, W/o.Ganeshkumar – 3rd Respondent /CoBorrower

This petition is coming before me on 25.08.2026 for final hearing in the presence of Mr.N.Rajendran, Counsel for the Petitioner and upon hearing the arguments of Petitioner and upon perusing the case records and having stood over for consideration till this date, this Court pronounced the following ...

**O R D E R**

This petition was filed by the Petitioner – Company seeking for the relief U/s. 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002 to appoint an Advocate-Commissioner to take possession of the schedule mentioned property from the Respondents and empower to Advocate-Commissioner to break open the buildings and issue appropriate directions to Inspector of Police, Thiruvaiyaru Police Station, Thanjavur District to assist to evict the occupants of the schedule property and handover possession of the suit property to the Petitioner and for other relief.

**2. The Brief averments of the Petition :**

The Petitioner Company is a incorporated under the Indian Companies Act 1956 and carryiing on the housing Finance business having its registered office at No.29/1, 2nd floor, Sir M.N.Krishna Rao Road, basavanagudi, Bengaluru, Karnataka and having branch office at D.No.2093/2A1, 1st Floor, Near Santhapillai Gate, Thanjavur. Mr.Arun Mahalingam, is an Authorized Officer nominated by the Petitioner / Company under the SARFAESI Act, 2002 to represent on behalf of the Petitioner / Company. The 1st and 2nd respondent had approached the petitioner Bank and availed housing Loan of Rs.12,00,000/- vide A/c. No.277201000354. The said loan was secured by executing an equitable mortgage by deposit of title deeds in favour of the petitioner by the Respondent. The 1st Respondent is the Mortgagor/Absolute owner of the Schedule mentioned property here under, and he has mortgaged the same with the petitioner by way of Registered Memorandum of Deposit of Title Deeds dated 08.12.2023 bearing Doc. No.3044/2023 and also deposited the registered sale deed in his name and other title deeds with the petitioner Bank. The said mortgaged property is secured asset in the hands of the petitioner to ensure the liability as against the respondents. The respondents failed to repay the loan to the petitioner and become chronic defaulter and the said account became a non-performing account and has been classified as Non-

Performing Assets on 01.05.2025. Therefore, on 02.05.2025 the bank has issued a demand notice to the respondents as contemplated under Section 13(2) of SARFAESI Act calling upon them to repay the overall loan amount of Rs.13,00,357/- to the Bank within 60 days. Subsequently, the Petitioner had issued Possession notice under Section 13(4) of the Act on 10.07.2025. The Petitioner – Bank published the possession notice in Tamil and English daily on 19.07.2025. The respondents willfully default in repayment of loan amount. In-spite of the efforts made by the petitioner, the petitioner was unable to take possession of the secured property. Since the respondents committed default and non-compliance of Section.13(2) of SARFAESI Act notice, the Petitioner is entitled for reliefs under section 13(4) of SARFAESI Act. Thus, the Petitioner prays for the reliefs as prayed in the petition.

3. On the side of the Petitioner, one Mr.Arun Mahalingam, Authorized Officer was examined as P.W.-1. Ex.P.-1 to Ex.P.-17 were marked on the side of the Petitioner.

**4. Point for consideration:**

Whether the Petitioner is entitled for appropriate reliefs as against the Respondents under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002?

**5. On the Point:**

Heard, Petition and case records are carefully perused and considered in the light of arguments placed before this Court by the Counsel for the Petitioner.

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6. This Court carefully considered the submissions of the Learned Counsel for Petitioner in respect of schedule mentioned property as well as possession notice dated 10.07.2025. Before getting into factual matrix, this Court wanted to rely the recent decision of Hon'ble High Court, Madras in W.P.No.10348/2021. The relevant portion of the Judgment is extracted hereunder for better appreciation.

> *Accordingly, W.P.No.10348 of 2021 is disposed of by requesting the Chief Judicial Magistrate, Villupuram to dispose of the petitioner's request for executive assistance in accordance with law within a period of six weeks from date of receipt of a copy of this order. It is clarified that notwithstanding the nature of the duties generally discharged by a Chief Judicial Magistrate, when a request under Section 14 of the said Act is carried to such officer, no adjudication is required to be undertaken in disposing of such request.*

Further the Hon'ble Superior Courts also concluded that the nature of work by the Chief Judicial Magistrate in respect of relief under section 14 of the SARFAESI Act is not an adjudicatory in nature and relates to executive in nature. With this pretext, this Court proceeds with the matter within the framework of Law.

7. On verifying the documents Ex.P.1 is the Certificate of Registration issued by National Housing Bank dated 31.07.2001. Ex.P.2 is the Gazette notification issued by the Ministry of Finance dated 10.11.2003. Ex.P.3 is the Authorization letter which ensures the Mr.Arun Mahalingam, was nominated by the Petitioner / Company under

the SARFAESI Act as Authorized officer. Ex.P.17 is the document show that the Respondents applied for loan from the petitioner Bank on 07.12.2023. The petitioner/company sanctioned loan for a sum of Rs.12,00,000/- to the respondents through Ex.P.4 on 07.12.2023 and after availing the above said loan the respondents executed Loan Agreement through Ex.P.5 on 07.12.2023. The 3rd Respondent/Mrs.Rathika, executed Letter of Guarantee through Ex.P.6 on 07.12.2023. The 1st respondent is the absolute owner of the schedule of property through Ex.P.8 Settlement deed dated 09.06.2021. The title deeds and the same was mortgaged with the Petitioner Bank, by the deposit of original title deeds as security for the said loan amount. After availing the loan, the 1st Respondents executed Ex.P.7 the Unregistered Memorandum conforming of deposit of title deeds on 08.12.2023 and Ex.P.9 the registered Memorandum conforming of deposit of title deeds on 08.12.2023 bearing Doc. No.3044/2023. After availing loan the respondents fail to repay the loan amount. Hence, the said loan account was declared as Non-performing Assets. So the Petitioner Bank issued Ex.P.10 Demand notice on 02.05.2025 to the respondents and the same was received by the respondents through Ex.P.11 Acknowledgment cards. Thereafter, as the Respondents did not pay the due, the petitioner Bank issued Ex.P.12 Possession notice on 10.07.2025 and the same was refused by the respondents through Ex.P.13 Acknowledgment cards. The Possession Notice also issued paper publication Tamil and English through Ex.P.14 on 19.07.2025. The respondents never raise any objection subsequent to the Demand notice dated 02.05.2025.

8. Further, the Respondents default in payment of loan amount which is proved through Ex.P.15 statement of accounts from 22.08.2016 to 05.02.2026. The petitioner company is absolute owner of the schedule mentioned property through Ex.P.16 Encumbrance certificate on 14.02.2026. The documents Ex.P.1 to P.17 proved the petitioner claim. Therefore, this court comes to the conclusion that the Petitioner is entitled to the reliefs as prayed for. Accordingly, the Point is answered in favour of the Petitioner.

9. In the result, the petition under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, is allowed with following terms:

**1) Ms. M. Jenifar, Advocate (Enrollment No. MS. No.6233/2023 - Mobile No.7871060124) is appointed as Advocate-Commissioner with following tasks :**

i) To inspect the schedule of properties.

ii) To take physical possession of schedule of properties with inventories.

iii) After taking inventories, handover the possession of schedule of properties to the Petitioner - Bank / Secured Creditor.

iv) In the event of any ambiguity or clarification while executing the orders of this Court, the learned Advocate-Commissioner is at liberty to approach this Court by way presenting Clarification memo.

v) In the event of any obstruction, the learned Advocate-Commissioner is hereby permitted to break open and took possession of the schedule property.

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vi) A sum of **Rs. 20,000/-** is fixed as remuneration to the learned Advocate-Commissioner and the Petitioner – Bank is directed to deposit a sum of **Rs.20,000/-** to the Court.

vii) After depositing the remuneration by the Petitioner – Bank, the learned Advocate-Commissioner shall fix a day for execution.

viii) The Report shall be filed at the earliest point of time.

ix) On filing Report before this Court, the learned Advocate Commissioner is entitled to get the remuneration of Rs.20,000/- from the Court by filing necessary application.

// Dictated by me to the Steno-Typist, and directly typed by him in the computer, corrected and pronounced by me in the open court on this 08th day of September 2026.//

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Chief Judicial Magistrate,
Thanjavur at Kumbakonam.

| ***WITNESS ON THE SIDE OF PETITIONER :*** | |
|---|---|
| 1 | Mr.Arun Mahalingam (Authorized Officer) |

***EXHIBITS ON THE SIDE OF PETITIONER :***

| **Ex. No.** | **Date** | **Details** | **Type of Document** |
|---|---|---|---|
| Ex.P.1 | 31.07.2001 | Copy of Registration Certificate | Copy |
| Ex.P.2 | 10.11.2003 | Copy of Gazette | Copy |
| Ex.P.3 | 24.12.2025 | Copy of Authorization Letter | Compared with original |

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| | | | |
|---|---|---|---|
| Ex.P.4 | 07.12.2023 | Copy of Sanction Order | Compared with original |
| Ex.P.5 | 07.12.2023 | Copy of Loan Agreement | Compared with original |
| Ex.P.6 | 07.12.2023 | Copy of Loan Guarantee Agreement | Compared with original |
| Ex.P.7 | 08.12.2023 | Copy of Unregistered Memorandum of Deposit of Title Deeds in favour of Petitioner Company executed by 1st Respondent | Compared with original |
| Ex.P.8 | 09.06.2021 | Copy of Settlement Deed | Compared with original |
| Ex.P.9 | 08.12.2023 | Copy of registered Memorandum of Deposit of Title Deeds in favour of Petitioner Company executed by 1st Respondent | Compared with original |
| Ex.P.10 | 02.05.2025 | Copy of Demand Notice issued to the respondents by the Petitioner Bank under section 13(2) of SARFAESI Act | Compared with original |
| Ex.P.11 | -- | Copy of Acknowledgment cards | Compared with original |
| Ex.P.12 | 10.07.2025 | Copy of Possession Notice issued to the respondents by the Petitioner Bank under section 13(4) of SARFAESI Act | Compared with original |
| Ex.P.13 | -- | Copy of Acknowledgment cards | Compared with original |
| Ex.P.14 | 19.07.2025 | Possession Notice paper publication Tamil and English | Original |
| Ex.P.15 | 05.02.2026 | Copy of Statement of Accounts | Online copy |
| Ex.P.16 | 14.02.2026 | Copy of Encumbrance certificate | Online copy |
| Ex.P.17 | 07.12.2023 | Copy of Loan Application | Compared with original |

**SCHEDULE OF PROPERTY**

Thanjavur Registration District, Thiruvaiyaru Sub Registration District, Thiruvaiyaru Taluk, Thirupalanam Panchayat and Village, Kamaraj Nagar, Natham

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Old S.No.298/2 part, New Survey No.298/5 to an extent of 0.01.37 aresm 136 sq.mtr. (1474 sq.ft., ) manai wherein RCC roofed house building constructed thereon with electricity service connection No.06-409-014-236, Door No.142 and other amenities within the following four boundaries :

North by : Pathway

South by : Street

East by : Irudhaiyaraj's plot

West by : Kamaraj's Plot

Patta No.221. The property is situated in Thirupalanam panchayat Board Limit.

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Chief Judicial Magistrate,
Thanjavur at Kumbakonam.