

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

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

Tuesday the 07th day of April 2026

CrI.M.P. No.1118/2025

(CNR.No.TNTJ18-003943-2025)

M/s.AU Small Finance Bank Ltd.,
(Formerly known as Fincare small Finance Bank Ltd.,)
Thanjavur. Rep. by its Authorized officer,
Mr.Utha Singh

– Petitioner

/ Vs /

1.Mr.Kamaraj, S/o.Nagalingam

2. Mrs.Kanagavalli, W/o.Nagalingam

– Respondents

This petition is coming before me on today for final hearing in the presence of Mr.Ashokkumar, 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 ...

ORDER

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, Orathanadu 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 is a incorporated under the companies Act and a non-banking finance company within the meaning of Banking Regulation Act and the petitioner is in the business of lending money to its customers for various purposes including financing facilities under various heads like mortgage, housing, non-housing Loan, Secured Loan and other loans etc., Mr.Utha Singh, is an Authorized Officer nominated by the Petitioner / Company under the SARFAESI Act, 2002 to represent on behalf of the Petitioner / Company. The respondents had approached the petitioner Bank and availed mortgage Loan of Rs.5,00,000/- vide A/c. No.22660001441903 on 27.12.2022. The 2nd Respondent has availed a loan facility by way mortgaging the property by way of producing the sale deed is produced. The respondents all the terms and conditions of the said facility and executed loan documents including memorandum of deposit of title deed in respect of schedule property. The 1st respondent is the absolute owner of the schedule mentioned property by way of the sale deed and he has mortgaged the same with the petitioner by way of registered memorandum of Deposit of Title deeds dated 30.12.2022 bearing Doc. No.3873/2022. The 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 committed default in repayment of loans. Due to non-payment of the loan installments, the accounts have

been classified as Non-Performing Asset on 09.07.2024. Therefore, the Petitioner Bank has issued a Demand notice to the respondents on 04.01.2025 as contemplated under Section 13(2) of the above Act calling upon them to repay the loan amount of Rs.4,94,660/- to the Bank within 60 days and the same was returned. The Petitioner – Bank published the demand notice in the leading newspapers “Hindu” (Tamil edition) and “The Business Standard” (English edition) on 29.11.2024. The respondents have not discharged the liability due to the Bank. Subsequently, the Petitioner had issued Possession notice under Section 13(4) of the Act on 21.03.2025. The possession Notice received by the respondents. The Petitioner – Bank published the possession notice in the leading newspapers “Hindu” (Tamil edition) and “The Business Standard” (English edition) on 26.03.2025. The respondents willfully default in repayment of loan amount. 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.Utha Singh, Authorized Officer was examined as P.W.-1. Ex.P.-1 to Ex.P.-16 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.

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 21.03.2025. 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 Authorization letter which ensures the Mr.Utha Singh, was nominated by the Petitioner / Company under the SARFAESI Act as Authorized officer, Ex.P.2 is the document that show that the Respondents applied for loan from the petitioner Bank on 29.12.2022. The petitioner/Company Sanctioned loan for a sum of Rs.5,00,000/- to the respondents through Ex.P.3 on 27.12.2022 and after availing the above said loan the respondents executed Loan Agreement through Ex.P.4 on 27.12.2022. The 1st respondent is the absolute owner of the schedule of property through Ex.P.5 Settlement deed dated 12.12.2022. 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 Respondent executed Ex.P.6 the Memorandum conforming of deposit of title deeds on 30.12.2022. 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.7 Demand notice on 16.08.2024 to the respondents and the same was returned. The Demand Notice also issued paper publication Tamil and English through Ex.P.8 on 29.11.2024. Thereafter, as the Respondents did not pay the due, the petitioner Bank issued Ex.P.9 Possession notice on 21.03.2025. Ex.P.10 is the photo copy of Possession Notice affixed in the schedule mentioned property. Possession Notice also issued paper publication Tamil and English through Ex.P.11 on 26.03.2025. The respondents never raise any objection subsequent to the Demand notice dated 16.08.2024.

8. Further, the Respondents default in payment of loan amount which is proved through Ex.P.16 statement of accounts as on 06.08.2025. The petitioner company is absolute owner of the schedule mentioned property through Ex.P.12 Encumbrance certificate on 02.08.2025. Ex.P.13 issued by the Reserve Bank of India in favour of Petition Company of 04.03.2024. Ex.P.14 is the Security Interest id Based Search Report on 22.07.2025. Ex.P.15 is the copy of license No.MUM:135 issued by the Reserve Bank of India on 12.05.2017. The documents Ex.P.1 to P.16 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) Mr. K.Ranjithkumar, advocate (enrollment no. M.S. No.1627/2005 - Mobile No.9842633135) 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.

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 07th day of April, 2026. //

Chief Judicial Magistrate,
Thanjavur at Kumbakonam.

WITNESS ON THE SIDE OF PETITIONER :

1	Mr.Utha Singh (Authorized Officer)
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<i>EXHIBITS ON THE SIDE OF PETITIONER :</i>			
Ex. No.	Date	Details	Type of Document
Ex.P.1	04.01.2025	Copy of Authorization Letter	Copy
Ex.P.2	29.12.2022	Copy of Loan application	Compared with original
Ex.P.3	27.12.2022	Copy of Loan Sanction Letter	Compared with original
Ex.P.4	27.12.2022	Copy of Loan Agreement	Compared with original
Ex.P.5	12.12.2022	Copy of Settlement Deed	Compared with original
Ex.P.6	30.12.2022	Copy of Memorandum of Deposit of Title Deeds in favour of Petitioner Company executed by 1 st Respondent	Compared with original
Ex.P.7	16.08.2024	Copy of Demand Notice issued to the respondents by the Petitioner Bank under section 13(2) of SARFAESI Act along with Tracking consignment	Compared with original
Ex.P.8	29.11.2024	Demand Notice paper publication English & Tamil	Original
Ex.P.9	21.03.2025	Copy of Possession Notice issued to the respondents by the Petitioner Bank under section 13(4) of SARFAESI Act along with Tracking consignment	Compared with original
Ex.P.10	--	Copy of Possession Notice affixed photo	Compared with original
Ex.P.11	26.03.2025	Possession Notice paper publication English & Tamil	Original
Ex.P.12	02.08.2025	Encumbrance Certificate	Online copy
Ex.P.13	04.03.2024	Copy of Order copy of Reserve Bank of India	Copy
Ex.P.14	22.07.2025	Copy of CERSAI Report	Copy
Ex.P.15	12.05.2017	Copy of License	Copy

Ex.P.16	06.08.2025	Statement of Accounts	Online copy
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SCHEDULE OF PROPERTY

Situate in Thanjavur District, Pattukottai Registration District, Orathanadu Sub-Registry, Orathanadu Taluk, No.22, Thennamanadu Vadakku Village in Patta No.268 Natham Manai Old S.No.269/12, now in New S.No.269/12B-0.03.50 ares = 8.65 cents = 3772 sq.ft., site and Mangalore tiled house constructed over an extent of 374 sq.ft., having measurement East to West 22 ft., South North 17 ft.,

Boundaries :

North by Govindaraj Manai

East by Duraikannu Manai

South by Duraikannu Manai

West by Road.

Chief Judicial Magistrate,
Thanjavur at Kumbakonam.