

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

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

Monday, the 06th day of April, 2026

CrI.M.P. No.1141/2025

(CNR.No.TNTJ18-004347-2025)

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

– Petitioner

/ Vs /

1. Mrs.Oviya, D/o.Thamaraiselvan

2. Mr.Elangovan,C/o.Kannusamy

– 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 Secured Creditor within the meaning of Section 2(l) (zd) of the SARFAESI Act 2002. The Petitioner company is an approved company to take actions under the provisions of the Said Act. 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.10,00,000/- vide A/c. No.21660000782910 on 06.12.2021. 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 2nd 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 08.12.2021 bearing Doc. No.2163/2021. 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 09.04.2024. Therefore, the Petitioner Bank has issued a Demand notice to the

respondents on 25.06.2024 as contemplated under Section 13(2) of the above Act calling upon them to repay the loan amount of Rs.10,00,000/- to the Bank within 60 days and the same was received by the respondents. 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 19.11.2024. 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 22.11.2024. 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.-15 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 19.11.2024. 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 01.12.2021. The

petitioner/Company Sanctioned loan for a sum of Rs.10,00,000/- to the respondents through Ex.P.3 on 06.12.2021 and after availing the above said loan the respondents executed Loan Agreement through Ex.P.4 on 06.12.2021. The 2nd respondent is the absolute owner of the schedule of property through Ex.P.7 Settlement deed dated 23.07.2021. 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 2nd Respondent executed Ex.P.5 the Memorandum conforming of deposit of title deeds on 08.12.2021. Ex.P.6 is a CERSAI report. 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.8 Demand notice on 25.06.2024 to the respondents and the same was received by the respondents. Thereafter, as the Respondents did not pay the due, the petitioner Bank issued Ex.P.9 Possession notice on 19.11.2024 and the same was received by the respondents. 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 22.11.2024. The respondents never raise any objection subsequent to the Demand notice dated 25.06.2024.

8. Further, the Respondents default in payment of loan amount which is proved through Ex.P.15 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 26.08.2025. Ex.P.13 issued by the Reserve Bank of India

in favour of Petition Company of 04.03.2024. Ex.P.14 is the copy of license No.MUM:135 issued by the Reserve Bank of India on 12.05.2017. The documents Ex.P.1 to P.15 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. Kannathasan, advocate (enrollment no. M.S. No.543/2005 - Mobile No.9626257168) 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 06th day of April, 2026. //

Chief Judicial Magistrate,
Thanjavur at Kumbakonam.

<i>WITNESS ON THE SIDE OF PETITIONER :</i>			
1	Mr.Utha Singh (Authorized Officer)		
<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	01.12.2021	Copy of Loan application	Compared with original
Ex.P.3	06.12.2021	Copy of Loan Sanction Letter	Compared with original
Ex.P.4	06.12.2021	Copy of Loan Agreement	Compared with original

Ex.P.5	08.12.2021	Copy of Memorandum of Deposit of Title Deeds in favour of Petitioner Company executed by 2 nd Respondent	Compared with original
Ex.P.6	22.07.2025	Copy of CERSAI Report	Copy
Ex.P.7	23.07.2021	Copy of Release Deed	Compared with original
Ex.P.8	25.06.2024	Copy of Demand Notice issued to the respondents by the Petitioner Bank under section 13(2) of SARFAESI Act along with Acknowledgment card	Compared with original
Ex.P.9	19.11.2024	Copy of Possession Notice issued to the respondents by the Petitioner Bank under section 13(4) of SARFAESI Act along with Acknowledgment cards	Compared with original
Ex.P.10	--	Copy of Possession Notice affixed photo	Compared with original
Ex.P.11	22.11.2024	Possession Notice paper publication English & Tamil	Original
Ex.P.12	26.08.2025	Encumbrance Certificate	Copy
Ex.P.13	04.03.2024	Copy of Order copy of Reserve Bank of India	Copy
Ex.P.14	20.12.2016	Copy of License	Copy
Ex.P.15	06.08.2025	Statement of Accounts	Online copy

SCHEDULE OF PROPERTY

Situate in Thanjavur District, Pattukottai Registration District, Orathanadu Sub-Registry, Orathanadu Taluk, Pinnaiyur West Village in Patta No.1199

1) S.No.317/3-0.05.50 ares = 14 cents

2) S.No.317/4-0.20.50 ares = 51 cents

Totaling 0.26.00 ares – site and R.C.C. Building therein with Door No.4/32

Measurement for building :

East to West breath 45 feet

North to South Length 65 feet

Totaling 2925 sq.ft.,

Common Boundaries :

North by Muthusamy Saluvar site and house

East by Moorthy Manai and House

South by Road

West by Malarvannan manai and house.

Chief Judicial Magistrate,
Thanjavur at Kumbakonam.