

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

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

Thursday, the 26<sup>th</sup> day of March 2026

**Crl.M.P. No.1137/2025**

(CNR. No.TNTJ18-005760-2025)

M/s. Cholamandalam Investment and Finance Company Ltd.,  
Branch office at Trichy,  
Rep. by its Authorized Officerx  
Mr.Prasanna, S/o.Joseph

– Petitioner

/ Vs /

1. Mr.Sivasubiramaniyan, S/o.Narayanan Regnasamy – 1<sup>st</sup> Respondent/Borrower
2. Siva Thangamaligai  
Rep. by its prop. Sivasubramanian – 2<sup>nd</sup> Respondent/Co-Borrower
3. Mr.Sundhari, W/o.Sivasubramaniyan – 3<sup>rd</sup> Respondent/Co-Borrower
4. Siva Enterprise  
Rep. by its prop. of Sivasubramaniyan – 4<sup>th</sup> Respondent/Co-Borrower

This petition is coming before me on 11.03.2026 for final hearing in the presence of Mrs.R.Sudha, 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 under section 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 Station House Officer of Vattathikottai 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 runs as:**

The Petitioner / Secured Creditor is Cholamandalam Investment and Finance Company Limited Co., incorporated under the Companies Act, 1956. Mr.Prasanna, is the Authorized Officer nominated by the company under the SARFAESI Act, 2002 to represent on behalf of the Bank. The Respondents are jointly applied loan on 30.03.2023. The Petitioner company sanctioned of Rs.22,75,000/- on 31.05.2023. The respondents have executed Loan Agreement on 31.05.2025. The 1<sup>st</sup> Respondent is the Mortgagor/Absolute owner of the schedule mentioned property. The 1<sup>st</sup> Respondent has secured the loan amounts by way of mortgaging the property belongs to him by way of Deposit of Title Deed and the respondent had executed a Registered Memorandum of Deposit of Title deeds dated 21.04.2023 vide Doc. No.681/2023 in favour of Petitioner Company. Due to non-payment of the loan, the accounts have been classified as Non-Performing Asset (NPA) on 03.06.2025. Therefore, on 04.06.2025 the petitioner has issued a Demand Notice to the respondents as contemplated under Section 13(2) of SARFAESI Act calling upon them to repay the loan amount of Rs.22,89,171/- as on 04.06.2025 to the petitioner within 60 days. The demand notice has received by the 1<sup>st</sup>

and 2<sup>nd</sup> Respondents, not received by the 2<sup>nd</sup> and 4<sup>th</sup> respondents. The Petitioner Company published the Demand notice in vernacular language Tamil daily and another one in English daily on 20.06.2025. The Respondents, have not discharged the liability due to the petitioner. The respondents willfully default in repayment of loan amount. Subsequently, the Petitioner had issued a Symbolic Possession notice under Section 13(4) of the Act on 21.08.2025. The Petitioner Company published the Possession notice in vernacular language Tamil daily and another one in English daily on 23.08.2025. The respondents willfully default in repayment of loan amount. As such the Petitioner is entitled to enforce their rights in the schedule mentioned property under section 13(4) of the SARFAESI Act. 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.Prasanna, Authorized Officer was examined as PW-1. Ex.P.-1 to Ex.P.-16 were marked on the side of the Petitioner.

**4. Point for consideration:**

1. 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. In respect of schedule mentioned property possession notice dated 21.08.2025 was sent already as per the requirement made in the provision. This Court rely on 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 High 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.

6. On verifying the documents, Ex.P.1 is the Gazette notification issued by the Ministry of Finance on 05.08.2016. Ex.P.2 is the Authorization letter which ensures the Mr.Prasanna, was nominated by the Petitioner / Company under the SARFAESI Act

as Authorized officer, Ex.P.3 is the document that show that the Respondents applied for loan from the petitioner Bank. The petitioner company sanctioned loan for a sum of Rs.22,75,000/- to the respondents through Ex.P.4 on 31.03.2023. After availed the said loans, the Respondents executed loan agreement through Ex.P.5 on 31.03.2023. The 1<sup>st</sup> respondent is the absolute owner of the schedule of property through Ex.P.6 Sale Deed on 04.11.2020 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 1<sup>st</sup> Respondent executed Ex.P.6 the Memorandum of deposit of title deeds on 21.04.2023. 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.7 Demand notice on 04.06.2025. Subsequently, petitioner company Possession Notice also issued paper publication vernacular language Tamil daily in "Dinamani" and another one in English daily in "The New Indian Express" on 23.08.2025 through Ex.P.8 and Ex.P.9. Thereafter, as the Respondents did not pay the due, the petitioner Bank issued Ex.P.10 Possession notice on 21.08.2025. The possession notice affixed in the schedule mentioned property through Ex.P.11. Subsequently, petitioner company Possession Notice also issued paper publication vernacular language Tamil daily in "Dinamani" and another one in English daily in "The New Indian Express" on 20.06.2025 through Ex.P.12 and Ex.P.13. The respondents never raise any objection after the Demand notice dated 04.06.2025.

7. Further, the Respondents default in payment of loan amount, which is proved through Ex.P.14 statement of accounts. The petitioner company is absolute owner of the schedule mentioned property through Ex.P.16 Encumbrance certificate on 23.09.2025. 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.

8. 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. M.P. Manoharan, Advocate (Enrollment No. MS. No.943/1998 - Mobile No.9443171401) 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 26<sup>th</sup> day of March 2026. //

Chief Judicial Magistrate,  
Thanjavur at Kumbakonam.

<b><i>WITNESS ON THE SIDE OF PETITIONER :</i></b>			
PW.1	Mr.Prasanna (Authorized Officer)		
<b><i>EXHIBITS ON THE SIDE OF PETITIONER :</i></b>			
<b>Ex.No.</b>	<b>Date</b>	<b>Details</b>	<b>Type of Document</b>
Ex.P.1	05.08.2016	Copy of Gazette Notification	Copy
Ex.P.2	25.01.2024	Copy of Authorization Letter	Copy
Ex.P.3	--	Copy of Loan Application	Copy compared with Original
Ex.P.4	31.03.2023	Copy of Loan Sanction Letter	Copy compared with Original

Ex.P.5	31.03.2023	Copy of Loan Agreement	Copy compared with Original
Ex.P.6	21.04.2023	Copy of Registered Memorandum of Deposit of Title Deed	Copy compared with Original
Ex.P.7	04.06.2025	Copy of Demand Notice issued to the respondents by the Petitioner Company under section 13(2) of SARFAESI Act along with tracking consignments	Copy compared with Original
Ex.P.8	23.08.2025	Demand Notice paper publication Tamil	Original
Ex.P.9	23.08.2025	Demand Notice paper publication English	Original
Ex.P.10	21.08.2025	Copy of Possession Notice issued to the respondents by the Petitioner Company under section 13(4) of SARFAESI Act along with tracking consignments	Copy compared with Original
Ex.P.11	21.08.2028	Copy of Possession Notice affixed photo	Copy compared with Original
Ex.P.12	20.06.2025	Possession Notice paper publication Tamil	Original
Ex.P.13	20.06.2025	Copy of Possession Notice paper publication English	Original
Ex.P.14	09.10.2025	Copy of Statement of Accounts	Copy
Ex.P.15	04.11.2020	Copy of Sale Deed	Copy compared with Original
Ex.P.16	23.09.2025	Copy of Encumbrance certificate	Online copy

### **SCHEDULE OF PROPERTY**

Land and Building bearing Survey No.364A/16B, measuring an extent of 405.05 sq.mts. Equal to 4360 sq.ft., out of 0.05.5 ares situated at Edaiyathi North Village, Pattukottai Taluk, Thanjavur District, bounded on the

East by : Road

West by : Property belongs to Karuppa Konar

North by : Property belongs to Yogeswaran

South by : Property belongs to Karuppa Konar

Chief Judicial Magistrate,  
Thanjavur at Kumbakonam.