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IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, TIRUPATHUR,
TIRUPATHUR DISTRICT.

Present : **Selvi.M.K.Anusha, M.L.,**
Chief Judicial Magistrate,
Tirupathur.

Tuesday this the 05th day of May 2026
Thiruvalluvar Aandu 2057, Siri Parabhava Aandu 22nd day of Chithirai Thingal.

Crl.M.P.No.756/2026
CNR.No. TNTU020015782026

M/s. Cholamandalam Investment & Finance Company Ltd.,
Represented by Authorization Officer,
Tr.K.Sadasivan, aged 34 years,
Registered Officer at "Dare house" No.2,
N.S.C. Bose Road, Parry's Chennai-600001.
Branch Office at No.363-A, 1st floor,
Near Pachal Railway Gate Fly Over, Pachal, Tirupattur-635602.

.....Petitioner.

// Versus //

1. Mr. M.Saravanan S/o.Munusamy,
2. Mrs. S.Pathmini W/o Saravanan

Both are residing at No.94, Old Colony,
Venkalapuram Village, P Muthampati Post,
Achamangalam, Tirupathur Taluk,
Tirupathur District – 635 653.

...Respondents

This petition came up before me for final hearing on 05.05.2026 in the presence of Mr.Manogaran, B.A.,B.L., Learned Counsel for the petitioner, after considering the facts and circumstances of the petition considering the materials available records and after hearing arguments, having stood over for consideration till this day this Court passes the following

Crl.M.P. No.756/2026
Date:- 05.05.2026

M.K.Anusha,
C.J.M., Tirupathur



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ORDER

1.The petitioner i.e., Cholamandalam Investment & Finance Company Ltd., has filed this application U/s 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 to appoint an Advocate Commissioner to take possession of the schedule mentioned property and documents relating there to and forward such assets and documents to the secured creditor the petitioner, issue any appropriate direction and orders to break open the secured asset mentioned in the schedule here under, if the same is under lock and key, by the Advocate Commissioner and to take inventory, directing the Superintendent of Police to instruct the Jolarpet Police Station or any other appropriate Police Officer having jurisdiction over schedule mentioned property to provide protection to the petitioner bank and its officials while taking over possession of the schedule mentioned property, directing the Tahsildar, Tirupattur Taluk to instruct the VAO having jurisdiction over the schedule mentioned property to assist the petitioner in taking possession of the property, to pass such further or other orders as deemed fit and proper in the circumstances of the case.

2. The Brief Averments of the Complaint is as follows :-

2.1. The petitioner/Secured Creditor submits that the 1st and 2nd respondents have approached the petitioner/secured creditor and gave the home loan application for LAP-Resale Independent House building on 14.07.2023. The petitioner/secured creditor also



scrutinizing the documents submitted by the respondent with financial capacities and also on considering the capacity for repayment of the loan to be sanctioned a home loan through sanction letter dated 22.07.2023 for sum of Rs.16,00,000/- (Rupees Sixteen Lakhs Only). The respondents have agreed to repay the said loan on demand to the petitioner/secured creditor together with the agreed interest.

2.2. The petitioner/secured creditor further submits that the respondents have executed demand promissory note, housing loan agreement and other necessary loan documents in favour of the petitioner/secured creditor for a sum of Rs.16,00,000/- towards home loan clearly agreeing to abide by the terms of the sanction dated 22.07.2023. The 1st respondent have secured the repayment of the loan by creating a mortgage and deposit his original documents and she had executed a memorandum of deposit of title deeds regarding the schedule mentioned property. Memorandum of deposit title deeds dated 16.08.2023. The respondent have failed to the repayment schedule, the petitioner repeatedly called them to repay the dues but the respondents failed to repay the dues. Therefore the loan facility extended to the respondents was classify as Non-Performing Assets (NPA) on 27.09.2025 with in the meaning of Section 2(o) of the Act in accordance with directing / guideline issued by the Reserve Bank of India.



2.3. The petitioner has issued statutory notice under section 13(2) of the Act on 30.09.2025.2025 interalia calling upon the respondent to repay a sum of Rs.20,05,341/- to discharge their liability in full within 60 days from the date of statutory notice i.e. (Demand notice) and the said statutory notice under section 13(2) of the Act dated 18.04.2025 to the respondents received the notice. The petitioner had published the said notice in two leading daily newspaper, Makkalkural daily Tamil news paper and the Trinity Mirror daily English new paper on 28.10.2025. The petitioner has taken symbolic possession on 05.01.2026.

2.4. No proceedings are pending before the DRT or any other forum as well no stay granted by DRT or any other forum pertaining to the above borrowers/respondents in respect of the secured assets mentioned in the petition schedule property. The petitioner further submits that no tenant is residing in the schedule properties. Hence, the petitioner approached this Court.

3. Proceedings before the Court :-

3.1. After filing this application the same was taken on file after considering the documents filed along with the petition.

3.2. The Hon'ble High Court in the Judgment reported in 2009 (2) MLJ (Crl) page 246 Indian Overseas Bank Vs M/s Sree Aravindh Steels Limited and others as held as follows



3.3. “CMM/DM acting under section 14 of the NPA Act is not required to give notice either to the borrower or to the 3rd party”.

By applying the said principle in the given case no notice is order to the respondent.

3.4. Hence, no notice was served and the application was taken for enquiry. The Authorized Officer **Mr.K.Sadasivan S/o Krishnan** was examined as PW.1 and documents were marked as **Ex.P.1 to Ex.P.12.**

3.5. The petitioner would submit that the respondent is a chronic defaulter of payment of loan, the said loan was classified as non-performing asset and thereafter notice was issued and in pursuance of the same Symbolic Possession was takeover, now the petitioner seeking assistance of this Court for taking actual possession of the property and he prayed to appoint for Commissioner to assist the petitioner for taking actual possession of the property.

4. Point for Consideration :-

4.1. Whether is this Court has to extend assistance to the Petitioner for taking actual possession of Schedule mentioned property as prayed ?

4.2. The evidence of PW.1 and the documents marked as Ex.P.1 to Ex.P.11 were carefully perused. The originals of the said were perused and the Xerox copy is alone is marked.



4.3. On perusal of the Ex.P.1 Authorization letter / Power of attorney dated 09.01.2023, Ex.P.2 ID, Ex.P.3 Loan application dated 14.07.2023, Ex.P.4 Sanction letter dated 22.07.2023, Ex.P.5 Home loan agreement dated 22.07.2023, Ex.P.6 Sale deed dated 10.08.2022, Ex.P.7 Memorandum of deposit of title deed dated 16.08.2023, Ex.P.8 Demand notice under section 13(2) of SARFAESI Act with online postal tracker and Paper publication made in the Trinity Mirror and Makkal Kural for notice u/s 13(2) of the Act dated 30.09.2025 and 28.10.2025, Ex.P.9 Possession notice under section 13(4) of SARFAESI Act with online postal tracker and paper publication made in the New Indian Express and Dinamani for notice u/s.13(4) of the act of possession notice affixing copy dated 31.12.2025 and 05.01.2026, Ex.P.10 Encumbrance Certificates dated 30.01.2026, Ex.P.12 Statement of accounts dated 30.01.2026. The respondent after obtaining the loan from the petitioner has failed to repay the loan and the same became non-performing assets. In pursuance of the same demand notices were sent and Symbolic possession was also taken. However, in order to take physical possession of the property the petitioner has come forward with the present application. The petitioner also submitted that no similar petition is pending in any other forum and no stay is granted by any other forum.

4.4. Considering the facts and circumstances of this case, this Court is of the view that the petitioner must be extended assistance for taking physical possession of the



property. In order to take the physical possession of the property it is necessary to appoint the Advocate Commissioner for the same.

4.5. All the documents marked on the side of the petitioner, and the evidence let in on behalf of the petitioner. It is quite evidence the respondent by mortgaging their property has obtained loan. But, the respondent has not repaid the loan amount and became a defaulter. As the Respondent as a security for the loan amount as mortgaged the property in favour of the petitioner, then the petitioner is entitled to realize the loan amount by taking over the property. In order to take physical possession of the property the petition filed by the petitioner is allowed.

In the result, the petition is allowed, as follows

1. Mr. S.Jayakumar, Advocate, Ms.No.2080/2017 Cell No.9952188125, place of practice at Tirupathur as per ID card is appointed as Advocate Commissioner to take physical possession of the secured properties.

2. If necessary, the Advocate Commissioner shall take police protection by submitting written request to the concerned police station house officer by stating reason for the same.

3. A sum of Rs.30,000/- is ordered as remuneration to the Advocate Commissioner in which Rs.10,000/- has to be paid directly to the Advocate Commissioner by the



petitioner initially and the balance of Rs.20,000/- has to be paid on execution of the warrant.

4. The Advocate Commissioner shall execute the warrant without causing any physical harm to the inmates and as per law. He Shall execute the warrant within 30 days from the date of issuance of warrant and submit report to this Court.

5. Further, it is strictly instructed to the Learned Advocate Commissioner should follow the direction without any deviation from the lawful execution and to avoid any kinds of collusion or conspiracy with the Respondent till the termination of this legal proceedings.

6. Issue Commissioner Warrant. Call on 05.06.2026.

Directly dictated by me to the Typist and typed by the Computer directly, corrected and pronounced by me in Open Court on the 05th day of May 2026.

M.K.Anusha,
Chief Judicial Magistrate,
Tirupathur.

1. Witnesses on the side of the Petitioner :-

1.	PW.1	Mr.K.Sadasivan, Authorized Officer,
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2. Exhibits on the side of the Petitioner :-

S.No.	EXHIBITS	DESCRIPTION OF THE DOCUMENTS
1.	Ex.P.1	Authorization letter / Power of attorney dated 09.01.2023.
2.	Ex.P.2	ID card.
3.	Ex.P.3	Loan application dated 14.07.2023.
4.	Ex.P.4	Sanction letter dated 22.07.2023.
5.	Ex.P.5	Home loan agreement dated 22.07.2023.
6.	Ex.P.6	Sale deed dated 10.08.2022.
7.	Ex.P.7	Memorandum of deposit of title deed dated 16.08.2023.
8.	Ex.P.8	Demand notice under section 13(2) of SARFAESI Act with online postal tracker, Paper publication made in the Trinity Mirror and Makkal Kural for notice u/s 13(2) of the Act dated 30.09.2025 and 28.10.2025.
9.	Ex.P.9	Possession notice under section 13(4) of SARFAESI Act with online postal tracker and Dinamani for notice u/s13(4) of the Act and Possession notice affixing copy dated 31.12.2025 and 05.01.2026.
10.	Ex.P.10	Encumbrance Certificates dated 30.01.2026.
11.	Ex.P.11	Statement of accounts dated 30.01.2026.

Schedule of Property

In Tirupattur District, Tirupattur Registration District, Tirupattur Taluk, joint 1 Tirupattur Sub Registration District, Tirupattur Panchayat Union Limits, Tirupattur Village,

1. Natham Sy.No.94/2I, in this Sub Division Natham Sy.No.94/2I1, out of this land bounded as follows:-



BOUNDARIES

- To the South of*** : ***House belongs to Mrs.Chandra.***
To the West of : ***Land in Sy.No.94/2I2 and 94/2I3.***
To the East of : ***Plot belongs to Mr.Raja.***
To the North of : ***Common Road and Temple.***

In the Midst measuring:-

East to West on North Side : 37 ½ feet.

East to West on South Side : 39 ½ feet.

South to North on both side: 23 ¾ feet.

2. Natham Sy.No.94/2I, in this Sub Division Natham Sy.No.94/2I2, out of this land bounded as follows:-

BOUNDARIES

- To the South of*** : ***House belongs to Mrs.Chandra.***
To the West of : ***Land in Sy.No.94/2I3.***
To the East of : ***Common Road.***
To the North of : ***Land in Sy.No.2I1.***

In the Midst measuring:-

East to West on North Side : 37 ½ feet.

East to West on South Side : 34 ½ feet.

South to North on both side: 20 ½ feet.

Measuring an extent of 738 Sq.feet (or) 68.56 Sq.Mtr of land.



3. Natham Sy.No.94/2I, in this Sub Division Natham Sy.No.94/2I3, out of this land bounded as follows:-

BOUNDARIES

To the South of : Land in Sy.No.2I2.

To the North of : Common Road.

To the West of : Common Road.

To the East of : Land in Sy.No.2I1.

In this Midst measuring:-

East to West on both side : 34 ½ feet.

South to North on both side : 3 ½ feet.

Measuring an extent of 120 ¾ Sq.feet of land, out of this undivided common ½ share measuring an extent of 601/4 Sq.feet (or) 5.59 Sq.Mtr of land,

Totally three Survey members measuring an extent of 1712 ½ Sq.feet (or) 159.04 Sq.Mtr of land with RCC building constructed thereon along with common way and all easement right.

M.K.Anusha,
Chief Judicial Magistrate,
Tirupathur.